

THE
COURT-KEEPER'S
GUIDE

For the keeping of
Courts-Let and Courts-Baron:

Wherein is largely and plainly opened, The Jurisdiction of these Courts, with The Learning of *Manners, Copyholds, Rents, Herriots*, and other Services and Advantages belonging unto *Manners*; shewing the Lord's due and the Tenant's duty.

Usefull for all persons concerned in
COPYHOLD ESTATES.

The sixth Edition.

By WILLIAM SHEPPARD Esq;

Whereunto are added

Precedents of Copies

OF

COURT-ROLLS,

With other Additions, by *Will. Browne*.

LONDON,

Printed by *G. Sawbridge, T. Roycroft, and W. Rawlins*,
Assigns of *Rich. Atkins* and *Edw. Atkins* Esquires.

For *Tho. Collins* at the Temple-gate, and *William Birch*, at the
Peacock, at the lower end of *Cheap-side*. 1667.

I do allow the Reprinting
of this Book, intitled, *The*
Court - Keeper's Guide,
with Additions.

27 Septem.
1676.

W. Mountagu.

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GUIDE

For the keeping of

Court-Books and Court-Records

Wherein is largely and plainly opened, The In-
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writing of the same, by the Court-keepers, and other
Advantages belonging to the same, as also the
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near the North Gate, and by W. Smith, at the Sign of the Green
Dragon, in St. Dunstons Church-yard, near the North Gate.

Jul 59

cciana

To all the
LORDS of MANNORS,
and Owners of
Courts Leet & Courts Baron.
Gentlemen,

 **HIS** is now the third
Piece of our Law
which by the good
hand of God I have
lived to English,
and send abroad into the World.
And this, though styled A help
to Court-keepers, to whom it will
no doubt be very usefull and help-
full; yet it will be, or may be, with-
all very profitable to others, and
most of all to men in your capaci-
ty, who are Owners of Mannors
and Courts. For by this you may
see the Extent of the Jurisdiction
of these Courts, and what you may

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doe

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The Dedication.

doe therein: what is the duty of your Steward, and what you may require and expect therein from him. By this you shall see clearly what the Profits and Perquisites of your Mannor and Courts are. Here is the Tenant's duty, and the Lord's due, and how and by what means the Lord may come by it. And now if this find as good Entertainment amongst you as my last Piece did, you may perhaps ere long hear from me again upon another Subject. Meanwhile let it suffice, that I am resolved to be alwaies to the Kingdome, and your selves,

A true Friend

and Servant,

William Sheppard.

TO
THE READER.

I Conceive it would be esteemed an unnecessary and fruitless Presumption to say any thing in the Praise of this Treatise, more then, that it is the Composition of the no less Judicious then Laborious *Sheppard*; and that it hath hitherto been so well received and esteemed by the Professors of the Law, that it hath already passed the Fifth Edition; and that notwithstanding the severall *Errata's* it hath gathered formerly, by the want of care or skill of the Correctors it hath met with. Which Esteem (next to the great Ability of the Authour) I am perswaded the Book hath acquired by the Accurateness of its Brevity, which renders it more

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por-

To the Reader.

portable, and consequently less troublesome, than any work of this nature. And now in this Sixth Edition (Reader) the matter is so well contrived to thy Benefit, that the most excellent Additions, both for variety and use, here inserted, do not swell the Book, either to trouble the Pocket, or disoblige the Purse: which makes me in some measure confident, that thou wilt not reject the Endeavours in this last Impression of

Yours, &c.

W. B.

THE



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the sign of the Peacock at the
lower end of Cheapside.*

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Written by Michael Dary.

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THE



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F I N I S.

THE COURT-KEEPERS GUIDE.

CHAP. I.

*What a Court is ; And the severall kinds
of Courts.*



A Court (in a Law-sense) is taken for the place where justice is judicially administered. And so it is either spirituall; *i. e.* for spirituall causes and matters : or civil ; *i. e.* for civil causes and matters. The civil Courts are again, either of Record, as the Parliament, the Court called the Kings Bench, the Leet or Lawday, and many others. Or not of Record, as the County Court, Hundred Court, and Court Baron. *Co. Inst. 1 part. fol. 58. 260. 117.*

Court
whar.

The kinds
of Courts.

We shall speak onely of the Leet
and Court Baron; and first we shall

B

say

Of a Court Leet.

say somewhat of them both together, and then we shall speak of them asunder.

CHAP. II

Of a Leet and Court Baron together.

THese Courts agree in some things, as in this, 1. They are both the Kingdoms Courts. 2. They may be kept at any place within the precinct of the Court. 3. They were both originally granted by the King. 4. They were both instituted for the more speedy administration of justice. But in more things they differ. For 1. The Court Baron may be kept once every three weeks, or (as some think) oftner if it please the Lord. But a Court Leet is not kept above twice a year. 2. Court Barons did originally belong to inferiour Lords of Mannors; but Court Leets did originally belong to the King. 3. The Court Baron is incident to every Mannor, so that every Lord of a Mannor may keep a Court Baron, but few have Leets; for inferiour Lords of Mannors cannot

cannot keep Leets without a speciall Prescription or a speciall Patent for them. 4. In the Court Baron the suitors Judg. are Judges, but in the Leet the Steward is Judge. 5. In the Court Baron the Jury may be of lesse than twelve, but in the Court Leet never; for in a Court Leet strangers may be impanelled of the Jury, but not so in the Court Baron. 6. A Court Baron cannot continue without two suitors *ad-minimum*, but a Court Leet may continue without any suitors. 7. The Court Baron doth not enquire of any offence against the State; But the Leet doth enquire of all offences under high Treason, and of some high Treasons also; but as felonies: *Co. of Copyholds fo. 60, 61. H. 7. 4.*

Now we shall speak of them asunder. And first of a Leet,

CHAP. III.

Of the Leet.

THe Leet (called also a Lawday, and Leet. a view of Frank-pledge) is an ancient Court of Record, instituted for what.

Judge.
The nature and
originall
of it.

Co. 4 Inst.
261. saith,
the Stat.
of 28 Ed.
3. cap. 9.
extends
not to
such writs
upon such
omission.

reformation of publick offences or Crown matters within the precinct thereof, after the example of the Sheriffs turn. For the Leet is derived out of the Sheriffs turn, and is holden before the Steward as Judge; who hath (except in some few things) the same power for the compasse and reach of its jurisdiction, which the Sheriff hath in his Turn for the whole County. And therefore after the grant of this derivative Leet, the Sheriff in his turn is not to meddle within the reach of this Leet, unlesse it be in case of the neglect of this Leet; and that not then neither (as it seems) without a speciall writ: and unless it be in case where the Leet is forfeit into the Kings hands. And if the Sheriff do otherwise, he is a trespasser: And if the Sheriff warn any man that doth live under the precinct of another Leet, to appear at his Court, the party may be discharged by a speciall writ. This Court at first was doubtless by the Kings grant, but at this day it is and may be claimed by prescription. *Finches Law* 246. *Co. 2 part of Inst. f. 72. Co. 4 part ch. 54. F. N. B.* 160.

CHAP.

CHAP. IV.

Of the place wherein the Leet is to be kept.

THE Leet may be kept in any place within the Hundred, Parish or Manor of which it is : as if it be a Leet for a Hundred it may be kept in any part of the Hundred. If it be a Leet for a Parish or Manor, it may be kept in any place within the Parish or Manor. In this therefore it doth differ from the Sheriffs Turn, which is to be kept in the accustomed place, otherwise the Sheriff may be punished for it by indictment. *Mag. Charta ch. 35. Dier 151. 8 H. 7. 1. 4. Co. of Copyhold f. 60. Powell of a Court Leet f. 22, 23. Co. upon Mag. Charta f. 72.*

CHAP. V.

Of the time when the Leet must be kept.

THIS Court is obtained by Grant, or Prescription; if it be gotten by grant it must be kept according to the grant. Otherwise it is by Prescription, for a Leet may be kept at any time of the year, if it hath been used time out of mind so to be kept. And the Lord of this Court is not as the Sheriff is for his Turn, bound to keep it twice a year (*viz.*) within a month of Easter, and within a month of Michaelmas. For one may prescribe to keep his Leet once or twice a year at any time of the year upon reasonable warning given, and if he can by usage prove it to be so kept, it is good enough. But if the Leet hath been used to be kept but twice a year, and at a day certain, or within a month of Michaelmas and Easter, and was never known to be kept at any other time, then it must be kept at that time, and cannot be kept at any other time. And if it be kept at any other time, all the Acts of the Court are *Coram non iudice* and

8
Of a Court Leet.

and void. *Co. super Lit.* 115. of Copy-
hold f. 60. 71. *Co. 2 part of Inst.* f. 72.
38 H. 6. 7. *Dier* 233. *Powell of a Court*
Leet f. 21, 22, &c.

CHAP. VI.

*The persons that are bound to do suit to
this Court Leet.*

ALL persons of mankind from 12.
years old to 60. except religious
persons, Barons, Earls, Tenants in an-
cient demesne, and such as have Hun-
dreds of their own, that dwell within
the precinct of other Leets, are bound
to do suit in this Court. For every
man must be within some Leet, and no
Prescription will exempt a man from it.
If therefore a man be under no parti-
cular Leet he shall be under the Sheriffs
Turne. But if a man dwell within the
precinct of another Leet, and have
lands onely within my Leet, I may not
compell him to doe service to my Leet.
And yet if he dwell sometimes in one
place, and sometimes in another, and
one of these places is within my Leet,
where he dwells at the time my Leet

Where he
shall be
said to be
commo-
rant where
not, vid.
Co. 2 Inst.
122.

is held; in this case and at this time he must doe service at my Leet, for he may doe suit at both places at severall times. And any stranger in case of want of Jurors may be made to serve of the Jury. And not onely Tenants that hold of the Manor wherein the Leet is, but others that live there; and not onely those that are resiants, but others may be punished there, if they there offend, and can be there met withall. *Marlb. chap. 10. 12 H. 7. 13. F.N.B. 160. old book of Entries 390. Powell of a Court Leet f. 20, 21, 22.*

CHAP. VII.

Of the Jurisdiction and power of the Leet and the Steward thereof. And what offences may be enquired of and punished in this Court.

1. In making a Jury.
Fine.

THE Steward in this Court may compell any man that doth live within the precinct of, and doth owe suit to the Leet to serve in the Jury. And in case of want of a sufficient number, he may compell any stranger to serve of the Jury; and if he refuse, fine him for his

his contempt. 7 H. 6. 12. And in some speciall cases he may impanell a second Jury to enquire of the concealments of the first, and fine them for their offence.

33 H. 8. 6. 1 Eliz. 17.

The Steward of this Court may fine any man for a contempt in the face of the Court; as if a man refuse to be sworn of the Jury, or being sworn to present what he hath evidence for, or depart without giving of his verdict. Or if one being duely chosen an officer and being present in Court, refuseth to be sworne, or if an affray be made in the presence of the Court, or a Tithingman refuse to present, or a Bailiff refuse to return a pannell; in all these and the like cases the Steward of himself may impose a reasonable * fine on the offender, and this fine is not affe-
rable nor traversable. But the Steward cannot at this day * commit to prison any man for his contempt, nor can he now take a Recognizance, or bind any man to the good Behaviour, as heretofore he might have done, and as the Sheriff in his Turn may doe. And yet *Co. in 4 part of his Inst. f. 262.* holdeth that he may take a Recognizance for the Peace.

2. In punishment of a contempt. Fine.

* Note, the fine must be severall, and if the offenders be amerced joyntly for joynt offences, it must be severally assessed. 8. rep. Greisly's case. 11. rep. Godfrey's case. * Imprisonment. Recognizance.

7 H. 7. 1.

7 H. 6. 12. Co. 8. 36. 11. 44. Dier 211.
233. 11 H. 6. 7. Powell of a Leet f. 32,
33. 10 H. 6. 8.

3. In making of officers and giving of oaths.

In this Court the Steward might and ought to have given the oath of Allegiance, when it was in use: they have power in this Court to make and swear Constables, Tithing-men, Hawards and such like officers, Co. 4 part of his Inst. f. 264.

4. In the things wherein he hath Conusance.

Offences by the common law.

Amongst the things whereof the Steward of a Leet hath Conusance, and wherewith the Jury is to be charged, some are such things as may be there enquired of, but cannot be there punished; but they are to be transmitted to the Justices of the Goale-delivery, or Justices of the Peace. And other things are not onely there to be enquired of, but there to be punished also. And these are some of them, offences at the common law, and others offences by certain Acts of Parliament, by which power is given to this Court therein. 27 H. 8. 2.

Felonies.

The things which are here onely to be enquired of, and not to be punished, are all felonies which were so by the common law, though now they be made Treason,

Treason, as of such as are enemies to the King; falsifie or abuse the Kings Coyn or Seal: So all kind of willfull burners of houses, or barns adjoyning thereunto by night, or stacks of Corn; robbers of Churches and Chappels, takers of Doves out of Dove-houses, or young Pigeons, or Hawks out of their nests in the night, or Fishes out of Ponds, stews, or trunks in the night; stealers of tame Deer, marked Swans or Peacocks; breakers of prison by felons, rescuers of felons, or the like; and their Accessories before and after the felony done: of all these the Jury must make presentment. And this presentment is to be transmitted to Superiour Courts to be proceeded upon. *Cromp. Jur.* 212. 22 *Ed.* 4. 22. 19 *H.* 6. 47. 5 *H.* 4. 5. 11 *H.* 7. 1. 14 *H.* 8. 18.

This Court cannot meddle with any offence against a Statute Law, except the Statute give it power so to do, 8 *H.* 7. 1. 21 *Ed.* 4. 21. And yet if it were an offence before against the Common Law, that doth still remain. The things whereof this Court hath perfect Conu-
sance, and that may be enquired of, and punished here in this Court, are 1. by
com-

Of a Court Leet.

Common law, 2. by Statute law. The offenders and offences by Common law are these.

For the
Lords
profit
Suit of
Court.

Oath of
Allegi-
ance.

Customs.

Waif and
estray, &c.
Franchi-
ses :

Common
Nusances.

1. The defaults of Officers and suiters in doing their suit to this Court. As if any living within the precinct of the Lawday, be not returned of the Decenary, or being returned do not appear ; or if any above twelve years of age had lived within the Leet, and had not taken the Oath of Allegiance, he was to have been presented here. And if any such person had come to the Court, the Steward ought to have given him this oath. *If any Customes or profits due to the Lord of the Leet, be withheld from him, and by whom.* As if any treasure, trove, waif, or estray, or wreck, be kept from him : Or if any claim any royall Franchise, or levy any new Franchise, or abuse any old Franchise within the Leet. *Old book of Entries, 507. 404. Stat. 18 Ed. 2. 45 Ed. 3. 27. Crompt. Jur. 213.* of all that are convict or fly for felony, or are outlawed in any action, *Powell of Courts 160, 161.* See the Charge.

2. All common and popular Nusances or grievances done to the Kings Subjects, by purprestures made in any land, wood,

wood, or water; by walls, hedges, ditches, or houses made up or broken down: by straitening, turning, stopping, surrounding, or otherwise hurting the Common wayes, bridges, or waters: by poysoning or corrupting the Aire, by the laying of any carrion or filth, setting up of houses of office, or the like: or by the selling of corrupt and unwholsome provision: or by the breaking of the due Assise of bread, beer, &c. by

* Cottages, and * Inmates: by not scouring ditches, or not repairing highways, and bridges, and the like. And for all these the offender (be he one man or a whole Parish) may be amerced, and the Jury may order the reforming of them under a pain. But for private or particular Nuisances to persons or places, this Court hath not to doe with them.

* 10l. the building,
4os. a month the continu-
ance:
* 10s. a month, Amercement.

Stat. 18 Ed. 2. 29 Ed. 3. 29. 2 Ed. 6. 10.

1 Jac. ch. 19. Co. 4 part of the Instit. f.

72. Dier 13. old booke of Entries, 390.

550. See the Charge.

3. All great affraies, outcries, and bloodsheds, and such like popular trespasses, which are trespasses by the Common law. But not any particular trespass to one man, as beating him, or the like,

Notorious trespasses and breaches of the peace.

like, unlesse bloodshed follow; nor to one Parish; as eating up, or inclosing their Common, or the like; nor any trespass punishable by a Statute, unless the Statute give Conusance thereof to this Court. *Old book of Entries*, 300. *Co. 9. 113. Dier 234. 13. Bro. and Fitz. Leet and Turn.* See the Charge.

Riots, Routs, and unlawfull Assemblies at the Common law are punishable in this Court. And for this the offenders are to be amerced according to discretion: this must be reasonable, and the reasonableness triable and avoidable, by plea or judgment of the Court in which the suit depends, *11 Rep. 446. Powell of Leets*, 166.

Evil members, or persons of ill behaviour.

4. Evill members, and persons of ill behaviours that are dangerous to their neighbors, as malefactors in Parks, such as take Doves by engines, such as are common suspected thieves, or that are the common messengers of thieves, the common drunkards, the common haunters of alehouses or taverns, not having whereon to live, night walkers and day sleepers, that live idly, have no estate and yet fare well, evesdroppers, common hedge-breakers, common peace-breakers;

ers, raylers and sowers of discord between neighbours, keepers or haunters of bawdy houses, common scolds, common Barretors, common Usurers, Inn-keepers who do commonly entertain thieves and suspicious persons, knowing or suspecting them to be so, and such as do remove bounds or Land-marks between Parishes, Hundreds or Counties; but not such as remove bounds between persons onely. All these the Steward of this Court heretofore might have bound to the Peace or good behaviour, but at this day he can onely by the presentment of the Jury, amerce them or make way to have them bound to their good behaviour by a Justice of Peace, 18 Ed. 2. Bro. Leet throughout. 2 par. of his Inst. f. 73. 27 H. 8. 17. 4 H. 7. 1. Hob. rep. pl. 311. See Charge.

5. Constables, Tything-men, Haywards, Alecunners, Bayliffs and such like Officers which are chosen & sworn in this Court, if any such being chosen refuse the office and to take the oath, or accepting doth not execute his office duely, or misbehave himself therein, as if Constables and Tything-men do not take care of watch and ward, keeping the

the Peace, raise hue and cry and pursue it for the apprehending felons, when any felony is done, or raise hue and cry when none is done; or do not punish rogues, and the like. Or Tything-men, chief pledges, Surveyours of high ways, searchers and sealers of Leather, and such like officers as doe not their duty. 23 *Ed.* 1. 4. 22 *Jac.* 5. 14 *Eliz.* 5. 1 *Jac.* 9. See the Charge. *Kytch.* 12.

Disturbers
of Justice:

6. All that rescue persons or things taken in a course of law; as rescuers of persons arrested, or goods or cattell distrained, pound-breakers and the like. See the Charge.

Neglect
of Instru-
ments of
Justice.

7. Lack of Stocks, Pillory and Turnbrell, Cucking-stool, Common pound. *Old book of Entries*, 390. 495. *Powell of a Leet* 156. See the Charge.

Offences
in trading:
Deceit.

8. All that use deceit in buying and selling, that sell false wares for good, especially if it be that which is to be eaten or drunk; that sell by false weights and measures, Inn-keepers, Victuallers, Bakers, Brewers, Fishers, Poulterers, or Fishmongers, that sell that which is unwholsome for food, or sell at unreasonable prices; Bakers and Brewers that do not keep the Ailise of Bread and Beer, and

and Millers that take excessive toll, 2 Ed. 6. 15. 21 Jac. 21. 14 H. 8. 12. 1 Jac. 22. 5 Eliz. 8 H. 6. 5. 27 Ed. 3. 10. Hob. Rep. pl. 163. 13 Ed. 3. 6. 13 R. 2. 11. Co. 2. part of Inst. f. 72. 4 Ed. 5. 31. Stat. 6 H. 5. 8. Old Book of Entries, 390. See he Charge.

Forefallers, Regrators, and Ingrossers (it seems) may be punished in this Court by the Common Law. And Usurers, as enemies to trading. *Powell of a Leet* 101, 102. But in these and such like cases the penalty of the Statute cannot be imposed, for Stewards have no power by the Statutes, but it is punished here as an offence at the Common Law before the Statute, which doth remain still; and for these the offender is to be amerced. *Powell of Leets.*

But this Court cannot take Indictments of any felony for the death of a man, or in any other case where it hath not Conuſance; And if it do so, it is void, and it seems the Judge may be punished for it. So neither can it take a Presentment of an offence done against a Parish, or against a man.

And therefore a Presentment in this Court for levying of gate, To the Com-

non nuisance of the inhabitants of *Dale*, for oppression in a Common, for beating a man, breaking a hedge, or the like; is void, and all the proceeding thereupon unwarrantable; and *Coram non Judice*. Co. 9. 114. 4 H. 6. 10. 22 Ed. 4. 22. 23 H. 8. 8. 41. Aff. pl. 30. The like is of all Presentments of any thing out of the Jurisdiction or precinct of the Court.

The offences and offenders punishable in this Court by the Statute Laws are Tanners, Curriers, Shoemakers, Searchers, Sealers, by 1 Jac. 22. Such as offend about fish, by 1 Eliz. 17. 3 Car. 4. about malt, by 2 Ed. 6. 10. 27 Eliz. 14. about Archery, by 33 H. 8. 9. about Guns, by 33 H. 8. 6. 14 H. 8. 11. about unlawful games, by 33 H. 8. 9. about Artificers and labourers, by 2 Ed. 6. 15. 24 H. 8. 12. about Musters, by 4 & 5 Ph. & M. 3. about High-ways, by 29 El. 5. 2 & 3 Ph. & M. 8. 5 Eliz. 13. about Horses, by 32 H. 8. 13. about Hostlers and Victuallers, by 31 H. 8. 14. 41. 21 Jac. 21. about the price of Wine, by part of 1 Jac. 25. 7 Ed. 6. 5. about Pheasants and Partridges, by 23 Eliz. 10. about tracers of Hares, by 14 H. 8. 10. about hunting in *Chen*, by 22 Eliz. 10. about

cottages and inmates, by 31 *El.* 7. about drinking and drunkenness, by 1 *Jac.* 10. 5 *Jac.* 5. 21 *Jac.* 7. about watering of Hemp where cattel drink, by 33 *H.* 8. 17. about Rogues, by 14 *Eliz.* about Crowes, by part of 24 *H.* 10. 8 *Eliz.* 15. about Horses, 32 *H.* 8. 13. And of all these and some others, this Court may enquire by authority of these Acts of Parliament. See the charge afterwards, *Co.* 2 part of his *Inst.* 263.

The articles to be enquired of by the Lect, by 18 *Ed.* 2. were inquirable therein by the Common Law.

The Jury in this Court may make By-Laws, and enquire of the breach of them as they have been used to do. And for Cawseys, High-ways and Bridges, the greater part may bind the rest without consent, 44 *Ed.* 3. 19. See chap. 39.

CHAP. VIII.

The manner and order of proceeding in the Lect.

THE manner and order of the proceeding in this Court, is somewhat after the order of proceeding in

Jury.

the Sheriffs turn, out of which it was derived. The Steward after he hath called the court, doth swear and charge the Jury; the which must consist of twelve at the least; and twelve will serve: *Old Book of Entries* 392.

Officers.

Presentment.

And if it be a Leet for a whole Hundred, it is fit to make some of the Jury of all parts of the Hundred: And if the custome of the place be to make two or more Juries, or one grand Jury and diverse petite Juries, it is good to observe it. And the Constables, and such like Officers, must be charged also upon oath; and must present either to the grand Jury, and they must make it part of their Presentment, or else the Officers must present alone; but the first is the better way. (And if twelve agree where the Jury doth consist of more, it is good enough, 11 *Car. B.R.*) but the Steward must see that the presentment be good. And for this,

1. That it be in Latine, for otherwise some say it is not good; but howsoever the Steward must turn it into Latine ere it be pleadable, or given in evidence.

2. That it say, Within the Jurisdiction of this Court.

3. That

3. That it be certain, for if the Presentment be thus, that J. S. did turn such a water-course, or stop such a way, and doth not say when nor where, this is void.

4. If it be of a Nuisance, it must say, To the common Nuisance of the People.

5. That it be made of such things whereof the Leet hath conuſance, otherwise it is not good.

6. If the Presentment be of a Felony, it seems it must be put under the hands and seals of the Jurors; and by writing indented of two parts, one whereof is to be under the Stewards hand; and this must remain with the Jury; and the other is to be under the hands of the Jurors delivered to the Steward, and by him to be transmitted to the justices of the Peace at the next quarter Sessions, to the end that the party may be there tried thereupon. But for other matters presented by the Jury, the Steward is to proceed upon them: For * a Presentment in a Leet only made by the Grand Jury, is said to be as Gospel, and no Traverse lyeth to it, but in some special case, as when it doth concern freehold: as if J. S. be

* *Fitzh.*
there
saith, that
Brittons
opinion
was con-
trary, that
every Pre-
sentment
both in
Leet and
turn was
traversa-
ble.
Traverse.

Presented that he by reason of Tienure is bound to repair such a way or bridge; or when the Presentment is for not amending a way which is out of the Jurisdiction of the Court. And in these cases also he cannot put in a traverse after the first day. But no Traverse lieth to the Presentment of a bloudshed, or the like, *Dyer* 13. And upon this presentment of offences, and no certain penalty imposed by the Jury: and so likewise for default of appearance, and other faults done in the Court, for which no certain Amercement is imposed, the Steward doth Amerce, and then it must be afferred; (that is) by oath of some men sworn to that purpose it must be set down the certain summe which the offender shall pay; and this may be done either by the Jury it self for all such offences, as are within their presentment: Or it may be by two or three of the Jury or others made afferours, sworn to that purpose, according to the custome of the Court; see the Oath afterwards. But the Steward himself cannot do it; and yet there needs no affering in these following cases.

Amercement.
These defaults are usually presented by the Jury.
Afferment.

1. When the Steward himself sets a Fine

Fine in certain upon a man for any offence done in face of the Court.

2. When the offence is done by an Officer of the Court out of Court, and Presented by the Jury, and the Steward imposeth the Fine.

3. When there is an Order made upon a certain penalty, (whereof all the Refiants are to take notice at their peril, 11 Car. by *Jones & Berkly*) and the Order is broken and presented to be broken, and the penalty forfeit. Notice.

4. When the Jury doth Present a man for an offence done, and amerce him a certain summe for it.

5. Where the mulct in certain is appointed and set by any Statute for that offence; for in this case no other summe or punishment can be imposed. And in all these cases when the Fine or Amercement is made certain, the Steward is to Extreat it, (that is) to make out Scedules & Copies of the Offenders names, the offence done, and the summes imposed upon them, with his Warrant annexed to the Bayliffe; (or if it be an offence against a Statute, to that Officer the Statute directeth to levy it.) And the Bayliffe may by this, levy it to the Extreats.

Debt.

Distresse.

Lords use. And for this Fine or Amercement at Common Law, the Lord may either bring an action of debt, or distrain a reasonable part of the goods, and cattel distraynable of the offender himself (but not of another) in any place in the high-way, or elsewhere; and in owner or another mans custody within the precinct of the Leet (but not elsewhere;) and either sell them or put them in Pound at his choice; and if the party offer the money, the Lord must accept it, 3 H. 7. 4. 21 H. 7. 40. 2 H. 4. 24. 7 H. 6. 12. 5 H. 7. 3. Stat. 13 Ed. 1. 13. Crompt. Jur. 212. Bro. Leet through. Presentment, 1. 5. 2. 7 H. 8. 2. Hob. rep. pl. 163. 47 Ed. 3. 12. Co. 8. 40. 11. 14. Old book of Entr. 390. 550. 507. 495. Powell of Leets, f. 33. 34. &c. Co. 8. 38. 11. 32.

The manner of keeping this Court, wherein this point is more largely opened, followeth.

CHAP. IX.

The manner of keeping a Court Leet.

First a Warrant must be sent to give notice of the Court. And it is good to give notice enough, six days or more

bc-

before the time ; but if it be lesse time it is sufficient in Law.

This notice must be given by the Stewards warrant after this manner,

W. S. Gentleman Steward of the Hundred [or Mannor] of *S.* To the Bayliffe of the same Hundred [or Mannor] greeting. You are hereby required to warn the Leet to be kept for your Hundred [or Mannor] [or Leet and Court Baron to be kept for the Hundred of *S.* and Mannor of *A.*] the 1 day of *April*, &c. by 9 of the clock in the forenoon of the same day, at the usual place there, [or at the now dwelling house of, &c. as the case is.]

Given under my hand, &c.

W. S. Steward.

The stile of the Court is to be entred thus, if it be for a Hundred.

*H. Cur' Vis' Franc'pleg' de Slaughter
tent' apud B. coram W.S. gen' Senescallo*

The Court
hundred
of Slaugh-
ter.
Hundred
de Slaugh-
ter.
ibi-

ibidem primo die Aprilis, Anno, &c.
Co. 4. 2.

If it be for one Mannor or Place thus:

Manerium de Slaughter.
The man-
nor of
Slaughter.

ff. Cur' Vis' Franc' pleg' de S. pro Manerio de S.

The Court of view of Frankpl. for Slaughter, for the Mannor of Slaughter, &c.

If the Leet and Court Baron be kept together, as they may be, thus:

ff. Cur' Vis' Franc' pleg' cum Cur' Baron' I. S. Militis pro Manerio de S. ibidem tent', &c.

Slaughter.

The Court of view of Frankpl. with the Court Baron of *J. S.* Knight, for the Mannor of Slaughter there held, &c.

Then let the Crier make three solemn Proclamations, and then let him say after the Steward, thus :

All manner of persons that have been warned to appear here this day, or owe Suit to this Court [or Courts] to be held here this day, come in, and doe your Suit ; And all Officers and others, answer to your names at the first call, upon pain and peril that shall fall thereon. Then

Then call all the Resiants, and mark every on that appears with a prick, and amerce them that make default, thus :
A. B. amerced six pence, and so at the rest ; and then put in the margin over against their names, *Are Resiants* and owe suit to this Court, and have made default, therefore is every of them amerced, as appears upon their heads.

Then call all the tythingmen of every Tything, and ask him if his Tything be there ; and ask him what *Lawday*, Hundred silver, or Common Fine he hath brought, and receive it.

Then call all High Constables, and Petite Constables ; which done, give to every one his Oath, thus :

You shall swear, you shall make true Inquiry and Presentment of all such Articles as shall be given you in charge, & belong to your Office concerning the Kingdom, & Lord of this Leet ; and shall not conceal or forbear any man or matter out of favour or partiality ; nor present any man or matter out of malice or evil will, but according

cording to truth : *So help you God.*

And if the Tything appear with the Tythingman, swear them thus :

The same Oath that *I. s.* your Tythingman hath sworn to keep for his part, every one of you shall keep for your parts; *so help you God.*

So Ale-Tasters, and other Officers, if there be any there, are to be sworn according to the custome of the place.

Then having the names in writing of the Jury, 24. if so many be to be had, from the Bayliff, bid the Cryer make an *Oyes*, and bid him say thus : You good men that are returned to enquire for the Kingdome, and the Lord of this Leet, answer to your names at the first call, upon pain of Amercement.

Then call them by name, and mark them with a prick that appear, and having a sufficient number, call the foreman to the Book, give him the same Oath as before to the Tythingmen ; then call the rest, three or four at a time, and swear them as the Tythingman is sworn before. Then

Then enter the Jury thus:

A B. — Jur.

C. D. }

E. F. }

G. H. }

I. K. }

L. M. }

N. O. }

P. Q. }

R. S. }

— Jur.

— Jur.

Then count them; which done, command the Cryer to make a Proclamation, and then say thus, All you that are Sworn, draw near and hear your charge; and the Court commandeth all men to keep silence, while the charge is in giving.

Then give their charge to this effect.

MY Masters, you that are sworn, in every action two things are to be considered: The action it self, and the end of that action, whither it tends, for the wise man begins from the end. In the business whereabouts we are, we will at this time take occasion to add a third, which yet in order we will

will make the first, and that shall be first, by what authority we doe this, and what warrant we have for it, for that in all publick busineses is also considerable: First then for our Authority, it is from the Law, from the supreme Magistrate; yea, from God himself, who hath and doth ratifie in Heaven the Laws and Ordinances of Magistrates agreeable to the Law of God; (whereof this is one we are now about) and requires every soul that it be subject thereunto. That this is done by authority of Law, and is agreeable to Gods Law, I think none will deny. This one plain Argument will prove the first, the Catholick, and Universal, and Continual keeping and holding these Courts throughout the Kingdome in all times and ages, and that without controlment; as also certain Acts of Parliament, for the rectifying, reforming, and directions of these

these Courts, besides the necessary and profitable use of them. Then that they are agreeable to Gods Law, and not besides nor against the same, is as clear as the former; for as our whole law doth nothing else but forbid the evil, and command the good, so all the Ordinances of the Law (whereof this is one) are to no other purpose but to see this be done, to preserve the just, and to find out and punish the contrary: And this will the better appear if we consider the particulars of the things here inquirable & punishable given in charge: whereof (I dare be bold to say) there is not one that jarreth with the Law of God, but is consonant & agreeable thereunto. Secondly, for the nature & quality of the Court, we shal the better search it by the consideration of the Original of these Courts, and the end which is to come after will tell us something more

more herein. For the Original of this Court, our Law tells us, that all Administration of Justice, was at the first for order sake put into the hands of the King, and men went to him as to the fountain and spring head: But after by reason of the multiplication of People, & so of causes, as the Realm was divided into Counties, so the power of the King was likewise divided into the Deputies of those Counties, as to subordinate Magistrates, amongst whom he was called Chief Justice, and men were, as they still are, directed to them as the streams flowing from the fountain to fetch and draw Justice to themselves; and this Deputy is him we now call *Viccomes*, our High Sheriffe; of whose power & office it is not our purpose to speak, but to him is the Government of the County committed, and for his help therein he hath two Courts assigned to him, the

The one for publick, the Sheriff's turn; the other for private matters, called the County Court. And this also by multiplication being found too great a burthen for the Sheriffs and the people too, was then subdivided farther into Hundreds and Parishes, who have divided the power of these Courts unto them in this the compass of their Precincts: and there were such as were special Conservators of the Peace, now called High-constables in the Hundred, Petit-constables in the Parishes. And so these Courts by common law have the same power within the Hundreds and Parishes, as the Sheriff hath in his Sheriff's Turn, unless it be in some special Cases. So that this Court is a power for the redressing and reforming of publick wrongs to the whole body of the Kingdom: of publick wrongs I say, for private and personal matters simply. First;

D

wrong

wrongs between man and man, whether by force or fraud, are not herein inquirable, but for them the County Court & Hundred is properly appointed; and therefore all such presentments as are onely of a wrong to some men or place alone are void. So that by this we see that we have the same power here that the Sheriff hath in his Turn, unless it be in some speciall cases: and the nature both of this and that Court are to enquire and reform publick injuries, and such as are against the body of the Kingdom.

Then for the ends of this Court, they may be three.

1. To take notice of the Hundreds, and to keep an account of them: and therefore it may be called the view of frankpledge, or the oversight of the people, who were all anciently call'd pledges, whereof one was the chief; for that then they

they were pledges one of anothers
behaviour, whereof he that we
now call Tithing-man was chief.

The second end may be, that
the people may be instructed in
the Laws of the Realm, and know
what they ought to eschew, and
what to follow.

And thirdly, and especially, for
more speedy, easie and due exe-
cution of Justice. For which pur-
pose (as you know) we have here
inquiries & search after offenders,
a presentment of them, and a pro-
ceeding against them. And in order
& reference to these ends, we have
charged you upon Oath to make,
yea, to make diligent inquiry : So
that you are not onely to present
what comes and is offered to you;
but you are to search about; and
that diligently, for occasions; and
that as you shall find, truly and
faithfully, without favour or fear
to present : wherein I doubt not of

your care and conscience. For me to enter into the learning of an Oath, and Arguments Divine to perswade you to care and your duty in this business, I hope it is altogether needless : we live in times of abundance of light and knowledge, and all (I hope) do know the Lord. Yet let me say this, an Oath is a Sacred Ordinance of God, a holy Invocation of his Name, to witness the truth of that we say or promise. The qualities or qualifications of it when it is done well, is in Truth, in Righteousness, and Judgment. That you omit none of the Truth, and that you present nothing above the truth. Secondly, that you do it also with Judgment, well knowing what you do. And thirdly, with Justice, dealing to every man his due, without any misaffection of love or hatred, fear or favour. Though it be too common a fault, slightly and superficially to pass

pass through the business, yet I hope better things of you; that you will more respect the Oath of the Lord laid upon you, you will weigh the grace and favour of God to us in the enjoying of these Courts, that we have or may have Justice at so easie a rate; and that you may not be charged for receiving the grace of God in vain, and abusing his favour, I know you will be careful: you will weigh, that by the careful and honest discharge of your duty in this business, God will be honoured, Law obeyed, our selves and others benefited. Else on the contrary, if you be found negligent or corrupt, God's Name shall be taken in vain, which he will not hold guiltless. And if of every idle word account be to be given, much more of every wicked and false Oath, the Law offended, Justice hindered, and your selves in souls and bodies endangered: for

the Lord will be a swift witness against the false swearer, and the law will set her self against him.

The Articles of your charge are like the offences and offenders you are here to inquire of, and they are of two sorts. Some of them are greater, and such as this Court hath no farther to doe with but to inquire of and present; you must inquire of, and present them. The Steward must then transmit them to some other powers to be proceeded upon farther. And some of them are less, and such as whereof this Court hath a power of *Oyer and Terminer*; power not onely to inquire of, but to proceed upon, and to punish. And these also are such as this Court hath power in either by the Common Law, or by Statute Laws. We shall cast them all together, and give them to you in the least room and easiest way that we can.

We

We shall first give you the first sort of offences here to be inquired of, which we shall but onely touch upon: so you are to inquire of all offences which are or were Felonies by the Common Law, (except about the death of a man.) And in this consideration you are to inquire of those offences, that being Treason do include Felony, or be onely Felony; and those offences that being Felonies by the Common Law, are now by some Statutes made Treasons. So you were to have inquired of and presented all that did imagine or endeavour the taking away of the life of the King, Queen or Prince, all that had deflowered the Queen, or wife of the Prince, or King's eldest daughter unmarried; so you are to inquire of any that levy war against the Kingdom, or adhere to the enemies thereof, counterfeite any of the great Seals or money, kill the

Justice of the one or other bench in doing their Offices, and such like offences.

Felony.

You are to inquire of all Larcenies and Felonies, in taking away of another man's goods; which are greater or less according to circumstance. For to rob a Church of Parish goods, is sacriledge: To take away any thing, though but a penny, openly or secretly, from the person of another, is robbery: To break a mans house with a purpose to rob, is burglary: and these are great offences. But in other cases to steal a man's goods or cattel, if it be in value above twelve pence, is but an ordinary Felony; if under, it is but onely a Petit Larceny, for which the offender is to be whipt onely, & not to be brought in danger of the loss of his life and estate, as he is for the rest. The burning of houses or barns of Corn, out-houses adjoyning to dwelling-houses,

houses, in the night, is Felony by the Common Law; so the felonious taking of Doves out of the Dove-house in the night, young Doves or Goshawks out of their nests, Fishes out of Ponds or Trunks in the night, or tame Deer, Swans or Cignets marked, or Peacocks, it seems is Felony by the Common Law. Of all these you shall inquire and present.

You shall inquire of the Accessaries to these offences, be they before or after the offence. And after the offence; First, either by the breaking of Prison, and getting away himself: Or secondly, by helping to convey away the Prisoner, which maybe by force, as rescue or the like, or fraud: Or thirdly, by a voluntary or negligent escape of an offender: Or fourthly, by a misprision, which is the concealment of a great offender and offence. For by all these ways a man may partake

Accessaries.

take of another man's offence, and so be liable to punishment.

These are the first sort of offenders; and if you shall find any such, you shall inquire and present what Lands and Tenements, goods and chattels, they had at the time of their offence committed, or at any time after.

For the
Lord's
profit.

In the next place you are to inquire of such offenders, and their offences, which may be heard and determined in this Court. And so you are first to inquire of such things as concern the Lord's profit, and the support of the Court, as of Officers, and others that owe Suit to this Court, and have not been called, or having been called have not appeared. Of such as have lived a year and a day within the precinct of this Law-day, and are not listed as resiant: and heretofore, if they had not been sworn to the King for their Allegiance, their

Suitors.

Oath of
Allegiance.

their Parents or Masters were to be amerced for this. Of such as withhold any customs or services incident to the Leet from the Lord of the Leet, as Hundred weight, King's silver, or the like money. Of Treasure trove; *i.* any that have found above or under ground a Treasure, the owner whereof is not known. Of Waifs; *i.* goods stolen and left by the Felon in his strict pursuit. Of Wreck; *i.* the goods upon a Shipwreck cast into the sea, that are come to land, the Owner being cast away. Of Estray; *i.* the tame beasts found wandring within the precinct of the Law-day, and not owned by any man. Of any that claim any Royal Franchises, or abuse them within the Leet. For all these offences the offender is to be amerced according to your discretion.

Customs.

Hundred weight.
Treasure trove.

Waif.

Wreck.

Estray.

Franchises.

Amercement.

Escheats.

The escheats of all Felonies did pertain to Lords, and therefore are in-

inquirable here : you are to inquire therefore of all kinds of forfeitures to the State.

Common
Nuisances.

Secondly, you shall inquire of common annoyances, and popular grievances; *i.* of things done to the common grievances of many. For as to the particular grievance of one man, or speciall grievance of one Parish, you are not to inquire in this Court; but that which is or may be generall, and to many persons and places. And so it is either of a higher nature: as base and lewd Ale-houses, though licensed. In-mates; *i.* such as dwell together in a Cottage, within another man, though in several rooms of the same house, passing in and out of the same door, being poor, and not able to maintain themselves. Cottagers, such as build new, or convert old houses into new, not laying four acres of land to it. And such as divide and multiply

10 s. a
month.

10 l. the
erecting.
40 s. a
month for
continu-
ance.

tiply houses that become hurtfull to the place by overpestring it with poor. Or of a lower nature. 1. In the streets of Towns, by common ways, Cawleys or Bridges leading between Towns, by stopping up the Ditches, or not scouring them, building houses or walls to straiten, incroachment, turning, digging pits, building houses, pales or hedges, laying blocks, or not repairing of them, or other doing to them, to the hazard or grief of the traveller. Secondly, in the common Waters, by stopping, turning or corrupting them, to the hurt of them that use them. Thirdly, in the Air, by corrupting it with houses of Office, laying of garbage, carrion, or the like, if it be near to the common High-way. Fourthly, in the provision for mens bodies, when either Victuallers, Butchers, Bakers, Cooks, Brewers, Maltsters or Apothecaries do make or sell that

Victual-
lers.
Maltsters

that which is corrupt and not wholesome for mens bodies : as when bread or beer is made of bad corn, malt, or hops, or medicines of bad drugs or spices, or the bread sold or offered to sale is not well baked, or beer not well brewed, or the like ; or that they kept not the due Assise set down for bread and beer and ale. These are common Nuisances, whereof you are to inquire and present.

And for these the offender may be amerced, and an order may be made under a penalty to reform it : and if it be a standing Nuisance by a house or wall, it may be pulled down. But for every one of these Nuisances, being *malum in se*, and against the Common Law, the offender may be amerced according to your discretion : or where any Statute hath appointed a speciall penalty, and this Court hath cognisance of it, he must pay that penalty ;

nalty; as for making bad malt,
upon 2 Ed. 6. 10.

If any water any hemp or flax ^{20 s.}
where cattel use to drink.

In the next place you shall in- ^{Great tref-}
quire of notorious and common ^{passies.}
trespassers: as if any great affrays or
outcries, or any affray and bloud-
shed have been made, by whom, &
with what weapons. For the wea-
pons that gave the blow, or were
drawn to break the Peace, are for-
feit to the Lord of the Leet. Of Ri-
ots, Routs, or unlawful Assemblies
that have been made, and Rapes.
For these are to be punished here,
not as upon the Statutes, but as an
offence at the Common Law. So if
any levy Hue and Cry, and appre-
hend a man without cause, for ^{Evil mem-}
this the offender is to be amerced ^{bers and}
according to your discretion. ^{persons of}
^{ill behavi-}

Next of all you shall inquire of ^{our.}
& present the common drunkard, ^{Haunters}
the common alehouse haunter, e- ^{of ale-}
^{houses.}
speci-

Inconti-
nent per-
sons.

Barretors.

Evesdrop-
pers.

Night-
walkers.

Scolds.

pecially if he spend much there,
and have little. He that keepeth, or
doth usually frequent a common
baudy-house. He that is a common
Barretor; i. that takes parties, and
moves Suits, and that commonly
for small matters, and taking the
worst side. The railer and sower of
discord between neighbours. The
evesdropper; i. he that doth harken
under windows, and the like, to
hear, and then tell news, to breed
debate between neighbours. The
night-walker, he that sleepeth by
day, and walketh by night. The
common hedg-breaker; a Rogue,
vagabond, and sturdy person, that
doth wander up and down. The
masterless person that lives with-
out means idly; without Masters,
fareth well, hath nothing, and can-
not give account of his life. The
common Scold; he that commonly
goeth in messages for thieves, or
doth harbour and entertain them,
know-

knowing them to be dangerous & suspicious; all these may be amerced, and be bound to the good behaviour by a Justice of Peace.

Amercement.
Good behaviour.

You are also to inquire of, and present, any one that hath been drunk or tipling in any Ale-house; any Ale-house-keeper that doth sell without Licence, or being licensed doth sell less then measure, one quart of the strong, and two quarts of the smallest for a penny; that doth suffer any to sit tipling in his own house; or if any do tipple in an Ale-house.

5 s. a time, or six hours in the stocks.

20 s. a time.

20 s. a time.

10 s. a time.

1 s. a time.

Bounds.

To remove bounds and marks between Neighbourhoods, Hundreds, Parishes, and Commons, this tends to debate, and such persons are very ill members, and may be punished here.

Officers.

In the next place you shall inquire of Officers, Constables, Tithing-men, Haywards, and the like, that have refused, being duly cho-

summed to meet.

E

sen,

Amerce-
ment.

Instru-
ments of
Justice.

sen, to take upon them the Office, and take the Oath, or being sworn doe not their duty : as Constables that do not their duty in keeping the Peace, watch and ward, in the pursuit of Hue and Cry, and apprehending of Felons, and safe keeping of them when they have them, in the searching of houses every month for unlawful games, in the punishment of Rogues, and in execution of the Steward and Justice of Peace's warrants against drunkards, &c. or the like: and for these offences they are to be amerced according to your discretion. For not punishing Rogues, he is to lose twenty shillings for every default; and for not executing of the Justice of the Peace or Steward's warrant against drunkards, tiplers, &c. there is a certain punishment which must be pursued.

Next you shall inquire whether you have the Instruments of Justice,

stice, the Pillory, Stocks, Cucking-stool, and common Pound, all in good reparations amongst you; if not, by whose default it is: and for the lack of these, the Township is to be amerced according to your discretion.

Next you shall inquire of them that oppose or disturb the execution of Justice: as if any do make any pound-breach, and take or let out any distress, or if any rescue be made on any Officer in the doing of his Office, to take away goods distrained, or any person arrested, to the impediment of Justice, or if one let another out of the Stocks, or any escape be suffered; the offender may be amerced according to your discretion.

Disturbers
of Justice.

In the next place you are to inquire of deceits and other offences in trade and traffick, and such as are employed therein; of all such as either make or sell deceitful wares,

Deceit in
trade and
traffick,

Weights
and mea-
sures.

Affise.

Amerce-
ment.

Forestal-
ler, Regra-
dor and
Ingrosser.

or use deceit in that they sell; as if a Butcher blow up his meat, or the like; or a Tradesman sell by false weights and measures, or by two; that buy by greater, and sell by lesser measures: or if Bakers and Brewers keep not the Affise, the prices and quantities, according to the writing of the Marshalsea: that either sel less in weight or measure, or take more in price then is set down: for these offences they are to be amerced as you shall think fit. Or if Victuallers or Fishers do sell at unreasonable rates: or if any be a Forestaller, Regrator, or Ingrosser; (that is) do buy any provision or other thing coming towards any Fair, or Market, or City, or Port, to be sold, or shall agree to buy it before it be brought into the Fair or Market to be sold, or shal perswade with any to sell them dearer, or to forbear to bring them into the Market, or buy up any provision in a Fair

Fair or Market, & sel the same again in any Fair or Market in the same place, or within four miles thereof; or buy up Corn, Butter, Cheese, or other dead victuals, with intent to sell it again to advance the price thereof: these are offences against the Common Law still, and so to be inquired of here, and the offender is onely to be amerced for it here, according to your discretion.

If any Baker in any City, Town Corporate or Market Town, make or sell any horse-bread, which is not of lawful Assise, and a reasonable weight, after the price of Corn and Grain in the Market adjoyning. Or if any Hostler or Inholder, dwelling in any City, &c. make horse-bread in his Hostry, or without, or sell not their horse-bread, and their hay, oats, beans, pease, provender and all kind of victual, both for man and beast, for reasonable gain, having respect to the prices in the Markets

Baker.

1. Offence fined.
2. Imprisonment 1 month.
3. Pillory.
4. To be forejudged from keeping an Inn.

adjoining, without taking anything for litter. Or if any Inn-holders or hostlers dwelling in any Thorowfare Town or Village, (being no City, Town corporate, or Market-Town, where any common Baker having been an Apprentice at that trade by the space of seven years is dwelling) make it not sufficient, lawful, and of due assise, according to the said price of Grain & Corn.

Tipler.

If a Tipler sell not by measures allowed and sealed, he may be punished by the Common Law, or upon the Statute.

**Butcher.
Vicualler.**

If any Butcher, Cook, Fisher, or other Vicualler, sell any manner of corrupt Victual, not wholesome for man's Body.

Maltster.

**2 s. every
quarter.**

If any Malt-maker make any Barly-malt, (the Months of *June*, *July* and *August* onely excepted) but that it have, in the Fat and floor, steeping and sufficient drying thereof three weeks at the least; and

and in those months, 17 days at the least (without which it cannot be wholesome for man's body.) Or if any mingle any Malt not being well and sufficiently made, or being made of mow-burnt or spired Barly with other good Malt, and put the same to sale. 2 s. every quarter.

If any person put to sale any Malt not sufficiently and well trodden, rubbed and fanned, whereby there may be conveniently fanned out of one quarter half a peck of dust or more. 20 d. every quarter.

If any keep a Tavern or sell wine by retail out of a Market or Corporate Town, or there without allowance of the head-Officers. Wines. 10 s. a day.

If any be a Tanner not brought up in the Trade, or the child of a Tanner, or marrying a wife that hath a Tan-house and Fats. Tanner.

If a Tanner shall use the trade of a Currier, Cordwainer or Butcher, or other using, cutting or working of leather. Loss of the hides.

If any but Tanners and Tawers of leather buy or agree for any rough hides but for sheeps.

If any Tanners do not sufficiently tan and dry their leather.

Currier.
6 s. 8 d. a
skin.

If any Currier use any trade of cutting leather, or curry in any house, if it be in a Market Town, but his own house; or curry leather not well tanned, and do not well curry his leather, or shall gash any leather in the shaving.

Shoema-
ker. 3s. 4d.
Searchers.

5 l. 10 l.

Sealers 5l.

* Labou-

ers Con-

spiracy.

1. 10 l. 20

days im-

prison-

ment.

2. 20 l. or

Pillory.

3. 40 l. or

Pillory,

and one

year.

If any Shoemaker make any shoes of leather not with good stuff, or offer to sell them on a Sunday.

If Lords of Leets do not chuse yearly Searchers and Sealers of leather; or if the men chosen refuse, or accepting do not their duty.

If any * Labourers conspire and bind themselves to do but such and such work, or so much, or in such a manner, and not to end what another hath begun.

If

If any Victuallers conspire or bind themselves to sell at such prices.

Conspiracy of Victuallers.

If any Miller use deceit, change the grist, or take more Toll then due; he may be amerced at your discretion.

10l. 30 days imprisonment, &c. Amercement.

If any Butcher be a Tanner, or gash a hide, or water it but in June, July, and August, or sell a rotten hide, or sell a Calf under five weeks old.

Tanners.

If any be a Usurer, and take more for the lene of money then his own again, this is an offence against the Common Law.

10l.

Next you shall inquire of other matters: If any man build a Cottage for dwelling, not having laid to it four Acres of land at least of his own free-hold and inheritance to be always enjoyed therewith; or if any willingly continue such a cottage; or if any place, or willingly suffer any In-mates in any such cottage.

10l.

40s. a month. 10s. a month.

If

Highways.
20 s. for
not chu-
sing, &c.

If the Constables and Church-wardens do not chuse Supervisors for the High-ways.

10 s. a time
for the
Plow's
fault.
12 d. for
the man.

If they have not appointed every Plow and Man his work; and if they have not done their work accordingly with the Plow and Man, you are to present it. So if men do not dig their ditches and pare their trees adjoyning to the High-way.

Hawking.
43 s. a time.

If any hawk or hunt in other mens ground against their will, in their eared or codded Corn, before it be in Stacks or Cocks; trace or kill any Hare in the snow by dogs or otherwise.

6 s. 8 d.

10 s. a Par-
tridge.

Take or kill any Pheasant or Partridge with nets or engines in the night.

20 s. a
Pheasant.

If any keep any Greyhound, hunting dogs or ferrets, or nets to take Pheasants, not qualified.

Guns. 20 l.
a shor.

If any use a Gun not having one hundred pound a year to spend, and shoot with hail-shot; or if he
kill

kill Pheasants, Partridges, or the like Fowl, therewith.

If every one have bows and arrows, and do use them; and if you have Buts well repaired: or else the Parish is to be punished for the Buts. Archery. 6 s. 8 d. a fault. 20 s. 3 months.

If men duly called to Muster come not with their Arms, but absent themselves without any good cause: Or if Captains, Muster-masters or other officers, take rewards of their Souldiers to discharge them in time of Service, or do not pay them having received it. Musters. 40 s.

If any keep houses of unlawful games, as cards, dice, or use to play at such games. 40 s. & 6 s. 8 d. a time.

If any take or kill any Salmon or Trout out of season, or take any Pickerel not being in length ten inches in fish or more, or Salmon not being sixteen inches or more, Trouts not being twelve inches or more, Barbel not being twelve inches or more. Fish. 20 s. a time, the fish and nets.

If

Conceal-
ment of a
Jury. 20 s.
a man.

10 s. a fish.
Loss of
nets.

Horses.

Loss of
them.

Crow-
nets.

Doves.

If any Jury being charged to inquire of any of these last offences have not presented it.

If any within a year fish with any net, or the like engin, whereof every mesh is not two inches and a half wide, unless it be nets to take Smelts, Loaches, Mennows, Buck-heads, Gudgeons and Eels; or for these fish with other nets then hath been usual.

If any put in any stone-horse of two years old under fourteen handfulls high into any Common, or put any horse there scabbed and infectious.

If any use Crow-nets, and thereby destroy those vermin by which Corn is destroyed, and any man refuse to pay his share for the taking of them.

If any take Doves in the winter by door-falls or engins, see below at W.

And lastly, you shall inquire of all

all the By-laws heretofore made at this Court, whether any of them have been broken, and by whom, and when, and how: And of all these things you shall make a certain and perfect presentment.

The Charge being done, cause the Criers to make one Proclamation, and say thus:

If any man can inform the Steward or this Inquest of any Treason, Felony, or any other matter now given in Charge, or inquirable at the Leet, let him come into the Court, and he shall be received.

If any do come in, swear him thus:

The evidence that you shall give to this Inquest shall be the Truth, and nothing but the Truth. *so help you God.*

Then adjourn the Court thus by Proclamation.

All manner of persons that have farther to do at this Court may depart

depart at this time, and appear here again at two of the clock in the afternoon.

At which time returning, call the Court thus, after an O yes :

All manner of persons that were adjourned over to 2 of the clock, or have farther to do at this Court, let them come into the Court, and give attendance at their peril.

Then call for the Presentments of the Jury and Officers, and others that are sworn. If they be not ready, give them a day, and adjourn the Court till then. And at that time call it as before, and enter all the adjournments in the Court Rolls.

But if their presentments be ready, call the Jury, and ask them whether they be agreed : and if they be all there, and say they are agreed, take them, and ask them whether they be content they shall be altered in form : if they say, yes, then take them in English, read them, and amend the form, if need be, and afterwards turn them into Latin.

Then swear such Officers and others

as are to be sworn, and make and swear
Afferors, if any thing be to be affered, as
the amercements for defaults and others,
and let them affer them.

The Constable swear thus :

You shall well and duly execute
the office of Constable for the Pa-
rish or Tithing of *A.* untill another
be chosen in your room, or you be
discharged by order of Law. *so*
help you God.

The Hayward thus :

You shall swear, that you shall
well and truly serve in the office of
a Hayward for this year to come;
you shall duly and truly execute all
such Proceſs as shall be directed
unto you from this Court; and you
shall from time to time ſignifie and
preſent all ſuch pound-breaches as
shall happen to be made within
your office; and likewise you shall
preſent all ſuch cattel eſtrayed, as
shall uſually come within your of-
fice; and in every thing well and
truly

truly behave your self during the time aforesaid. *So help you God.*

The Afferors thus :

You shall well and truly Tax, Assess and Affere, the several ameracements here presented, and now to you remembred: you shall not spare any man for favour, nor increase upon any man for malice; but upon every man according to the quality and quantity of his offence and faults. *So help you God.*

For Allegiance
thus :

You shall swear that from this day forwards you shall be true and faithful to our Sovereign Lord the King, and his Heirs and lawfull Successors; and faith shall bear of life and member, and terrene Honour: And you shall neither know nor hear of any ill or dammage intended unto him, that you shall not defend. *So help you God.*

And

And then discharge the Court
thus with three Pro-
clamations.

All manner of persons that
have appeared here this day, at
this Court, and have farther to
do here, let them now come in,
and they shall be heard; else eve-
ry one may now depart, and are
discharged of their attendance,
and not to appear again at this
Court, but are to keep their day
again upon new warning.

And now having done with this Court,
we come to speak of the Court Ba-
ron.

F CHAP.

CHAP. X.

What a Court Baron is, and the Mannor.

Court Baron what it is.

Evidence. Rolls of the Court.

THE Court Baron is an Assembly of Lord, Tenants, Steward and Bailiff within the Mannor, to take care and inquire of causes concerning the Mannor, to see Justice duly executed, the acts and ordinances there passed to be recorded in the Rolls of the Court; the which Rolls are the Evidences of all Ordinances, Duties, customs and conveyances that do concern the Lord and Tenants, and are to be entred by the Steward, or other Officer indifferent between them, and are to remain with the Lord, that he may know his Tenants, Rents, Fines, Customs and Services. *Calth. f. 46.*

Prescription.

Or (briefly) this Court is a Court that every Lord of a Mannor hath within his Mannor, as inseparably incident thereunto. And this jurisdiction was doubtless originally granted by the King to Lords of Mannors, who then were great men, and by continuance is claimed and taken by prescription.

This

This Court is said to be double, the 2 Courts: one for the Trial of Titles of their Land, for the taking and passing of Estates, Surrenders, Admittances, and Grants; and herein the Lord or his Steward (as the custom of the place is) is Judge. Judges. And this is called the Copyholders Court. And the other is for Triall of Actions under forty shillings; after the example of the County Court. And in this sense the County Court is called County Courts. And in this Court the Freeholders are Judges. Of this latter we have nought Judges. here to say, but of the former Court onely: howbeit this is still in force, and exercised within some Mannors every three weeks. And when the Court is of this double nature, the Rolls contain matters of both Courts: but the Court may be kept for Copyhold causes, though it want Freeholders. And for the keeping hereof, there is need of a concurrence of the Lord, Steward, Freeholders, Copyholders, and Bailiff or Reeve: And these all together can make a perfect execution of Justice in all that doth belong to the Jurisdiction of the Court.

Chancel-
lor.

Steward.
Judge.

Lord.

The Lord is chief to command and appoint the Steward. And he for matters of Title between the Copyholders is supream Judge in Law and Equity: so that he occupieth two rooms, Chancellour in case of equity; Judge in matter of right. He hath a great command also in things peculiar to himself. And yet in some cases the Steward doth exercise the place of supream Judge between tenants in matter of title. He is in all places to direct and register, and record all the proceedings of the Court between Lord and Tenant, and between Tenants, and to be indifferent between them.

More particularly he may punish offences, as not performing Customes, breach of By-laws, not discharging duties, and the like.

Secondly, decide controversies about the title of Land: wherein observe this;

1. That he cannot meddle with any other Lands, but the Lands of the Manor.

2. He is not in judging tied to the strict rules of the Law, but as a Chancellour in Chancery may upon bill redress matters in equity. *Co. of Copyhold*, f. 122.

3. He

3. He is to make admittances.

4. He may make Licences: wherein observe, first, he can do more then the Steward; for he may in any case make admittances out of the Mannor where he will, but so cannot the Steward. Steward.
Admittan-
ces.

And he may grant a Licence to Alien by Deed, (and in or out of Court as it seemeth) but so cannot the Steward without a speciall custom to inable, or a speciall authority from the Lord so to do. *Co. of Copyhold, f. 123, 124.* Licence.
Custom.

The Freeholders, which are such as have Fee-simple Land parcell of the Mannor by Deed, these are Judges in all civill Actions, and in some cases (by speciall custom) in matters of right between Copyholders; they are also to affere, adjudge of amercements, and to return and certifie judgements. Freehol-
ders duty.

The Copyholders, which are such as hold any of the Land parcell of the Mannor by copy of Court Roll, these are to inform and present offences committed against the Lord within the Mannor, or otherwise, according to that which the Steward shall give them in charge. And these being sworn of the Jury, in this Court, are called the Ho-

Bailiff's
duty.

mage, being for the most part such as owe Homage to the Lord of the Fee.

The Bailiff is to attend the execution of the commands and Process of the Court, and to make return thereof when he hath executed them.

We cannot well go further to clear up these things, till first we have made way thereunto by opening some others. And because a Mannor hath such relation to a Court, that one of them cannot be nor stand without the other; therefore we must of necessity speak something of the Mannor.

CHAP. XI.

What a Mannor is, and the parts thereof.

A Mannor is Land in the hands of a Lord, of whom many Tenants (two at least) do hold, to do suit of Court. And it is made up of two things, Demesnes and Services.

Demesnes.

The Demesnes properly are that part of the Mannor which is in the Lord or his Bailiff or servants hands; whereof the Tenant hath not nor ever had to doe. But in a larger sense it doth comprehend

prehend all the Copyhold Lands also.

The Services are the Rents, Duties Services and performances of the Tenants which they are to perform and doe to their Lord. For as a messuage or Lands cannot be called a Mannor without Tenements thereunto belonging to pay rents, and do services, but doth still bear the name of a messuage or Lands: so if a man have Tenements which do pay Rents and doe Services to him, and no messuage or Lands whereupon to keep Courts, and to receive his rents and services, this cannot be called a Mannor, but a Seigniorie in grosse.

Services are of two kinds, (*viz.*) by Tenure and by Covenant: Services by tenure are of two sorts. As if a man at this day give Land in tail, or Lease land for life or years, keeping the Reversion; in this case there is a Service of Fealty incident to this Tenure between *donor* and *donee*, lessor or lessee; but this maketh no Mannor. But for the farther opening of this, these things must be observed. Some Reservations do make neither Tenure nor Mannor; as to do Suit at the Lord's Court when please the Tenant, to beat

Seigniorie
in grosse.
The kinds
of services.

Tenure.

or kill the Lord's Tenants that do trespass in his Demesnes, to come to the Lord's Court, and there to doe nothing. But if it be to come there to affere the amercement or the like, it may be a Tenure tending to support a Mannor. Some Reservations do make a Tenure, but no Mannor; as to amend a high way, or to pray for the prosperous estate of the Lord, or to find the Lord and his dogs meat when they hunt the Fox in such a place. Some Reservations do make both a Tenure and Mannor; as to do Suit of Court to the Lord's Court, upon warning, though twenty miles distant, to amend the high ways within the Mannor, to wait upon the Lord within the Mannor for a certain time, to say Divine Service to the Lord and his Tenants in the Court-house before the Court sit. Some Reservations make a Service but no Tenure; as to wait upon the Lord twenty mile from the Mannor, and the like.

2. A Mannor is made by continuance of time, and cannot be made at this day by any person or means whatsoever, not the King himself. And therefore if a man at this day be seized of twenty

Acres

Acres of land, and enfeof nineteen several persons of nineteen Acres, and keep the twentieth Acre in his hands, and reserveth suit of Court and other services to be done by these nineteen Tenants to the Court to be kept on the twentieth Acre; albeit these estates be made by Deed indented, yet this is no Mannor, but a Tenure in gross onely. For a Mannor must be by prescription, and the Services time out of mind. *Calthrop, fol. 10, 11.*

For as all Services will not make a Mannor, so those Services which are by Covenant onely, or by Tenure, if they be made by agreement within the time of memory, they do not make a Mannor. Nor can the Lord, albeit his Tenant be never so willing, unite two Mannors in one, or annex any other thing to his Mannor, or make that a part, which is no part of the Mannor. *Coke of Copyhold, fol. 53. 3.*

Union of Mannors.

And yet it is held, that if the Tenants voluntarily submit themselves to such an innovation, and the same be continued time out of mind without contradiction, this may make an union, and one in name and use of two distinct Mannors :
so

so if one Mannor be holden of another, these two Mannors may be united by escheat. But otherwise what they doe in one Mannor is traversable in another. *Co. of Copyholds, chap. 31, 33.*

And yet it is held, that a man may at this day in some sort enlarge a Mannor by adding some services to it. As if the Lord give parcell of his Mannor to hold by doing suit to the Lord's mill within the Mannor, the Lord may distrain for this, and it is held to be parcell of the Mannor. So if the Lord make a gift in tail, Lease for life or years, of parcell of the Mannor, reserving Services in grosse, by this the Services of an ancient Mannor may be encreased. And it hath been thought by some, that if a Lord have a Mannor which doth extend it self into two Towns, and he grant the Demesnes and Services in one Town, that by this the grantee hath a Mannor. But inquire of this, *Calthrop. f. 11.* But this is certain, that if any thing have the reputation of a Mannor, or be usually called a Mannor, though in truth it be no Mannor, yet it may be granted by the name of a Mannor. *Calthrop. fol. 13.* And a Mannor and Court of Copyholders,

Grant.

holders, by custom may be without any Demefnes. See after fol. Co. of Copy-holds, fol. 52, 53.

Ancient Demefne Mannors and Lands are certain ancient Lands known by that name, and to be of that nature, which are recorded in the book called *Domesday*. This Land differeth not from other Lands, onely the Tenants of these Lands have certain priviledges above the Tenants of other Mannors. As see them *Coke part 4. chap. 58*. But the Court of this Mannor is in the nature of a Court Baron, no Court of Record; a Court wherein the suitors are Judges: And the proceeding herein is as the proceedings are in other Court Barons. *Crompt. Jur. 230, 231.*

CHAP. XII.

The place wherein the Court Baron is to be held.

A Court Baron may be kept in any place within the Mannor, as the Hundred Court may be kept any where within the Hundred, and is not like in this to the Sheriff's County Court, which

which in some Counties is by divers Statutes to be kept in some speciall places. But this Court cannot be kept in any place without the Mannor. And yet if a man have two or three Mannors, and time out of mind the Courts of all the three Mannors have been kept in one of them; this may be good. *Co. 1. part fol. 57.*

CHAP. XIII.

The time when the Court Baron must be kept.

THIS Court may be kept once every three weeks for the triall of Actions: And the Copyholders Court for passing estates, and making admittances, may be kept as often as the Lord please.

CHAP. XIV.

What persons are bound to do suit to the Court Baron.

ALL Freeholders of the Mannor are bound to do suit to the Freeholders Courts; and all Copyholders and

custo-

customary Tenants, to the Copyholders Court. And all such as are bound by Tenture or Covenant are bound to doe suit to both.

CHAP. XV.

The jurisdiction and power of the Court Baron, and the Steward there, and what things are to be inquired of in this Court.

FOR such an offence as a Steward in a Leet may fine, the * Judge of this Court may amerce: and this Amercement need not to be affixed: and for this Amercement the Lord may distrain if he can prescribe for it. *Co. II. 45. Br. distresse 13.* But regularly in this Court, being no Court of Record, the Steward cannot doe much without the Freeholders, nor can they together imprison any man: and yet *Consuetudo loci est observanda*, for in some places the jurisdiction is different from other places.

Fine.
* who is intended.
Amercement.
Affixed.
Prescription.

Imprisonment.

In these Courts, where are ancient Freeholders, they may hear and determine any civill Action for debt or damage under forty shillings between parties

Trial of Actions.

Free-suitors.
Judges.

Trial of
Titles.

Judge.

parties living within the place, or without the place, for any cause arising within the place, which are entered after this manner; and therein they are to proceed according to the common Law, and example of the County Court. And as to this part of the Jurisdiction, the Free-suitors alone are Judges, and the Steward can do nothing without them. *Co. 1. part 58.*

Copyholders may in this Court try Titles of their Copyholds, and bring reall Actions by plaints for this Land, and these Actions may be heard and determined here. And as to this part of the jurisdiction the Lord or the Steward (as the custom of the place is) is Judge.

Also in this Court one Tenant may prefer a bill to the Lord to be relieved in equity against another Tenant; and herein the Lord alone is Judge.

The rest of the power of the Court lieth in making estates, taking surrenders, and making admittances, and the like.

This Court being onely for the benefit of the place, and the Lord and Tenants of the Mannor; the Articles are

to

to inquire of such things onely as tend to that purpose. As of the defaults of suitors that owe suit to the Court. *Kytch. fol. 54.*

Of such as withhold or conceal the Lord's Lands, Evidences or Franchises. *Kytch. fol. 55, 56.*

Of such as encroach upon the Lord's Lands or Royalties. *Kytch. ibid.*

Of such Tenants as are dead, and what is happened to the Lord thereby. *Kytch. fol. 55.*

Of any forfeiture by a Tenant, Freeholder or Coyholder. *Kytch. ibid.*

Of any incroachment by one Tenant upon another. *Kytch. ibid.*

Of any Surcharger or abuser of the Common. *Kytch. ibid.*

Of any By-laws broken. *Kytch. ibid.*

CHAP. XVI.

The manner and order of proceeding in the Court Baron.

IN case of Actions tried here and pleas of Land in this Court, the proceedings must be much after the example of those Courts out of which this is deriv'd, the

Amercement.
Distress.
Debt.

the County and Hundred Courts, and according to the rules of the Common law. And for the rest of the jurisdiction, the Steward doth use to swear some of the Tenants: (which is called the Homage) these he doth charge with divers Articles, and upon them they do Present. And upon this presentment the Steward is to proceed as upon the Presentment in a Leet, save onely that (as some say) the Lord cannot bring an Action of debt, but is to distrain onely for the Amercement in this Court. 2 H. 4. 24.

For the manner of taking Surrenders and making Admittances, see afterwards.

The manner of keeping this Court followeth.

CHAP. XVII.

The manner of keeping a Court Baron.

First, a warrant is to be made to give notice of the Court: and it is good to give notice enough, six days at the least; but if it be less it is sufficient in Law, unless there be any speciall custome for

for it. This warrant may be after this manner :

To the Bailiff of the Mannor of C.

You are hereby required to summon and warn the Court Baron of I. D. Esquire, to be holden for your Mannor of C. upon the third day of Apr. next, at the usual place, (or at, &c.) before me or my sufficient Deputy : and that you warn all persons that owe suit to the same Court, to be then there to do their Services : and that you your self be then there to make return hereof, and do your duty. Hereof fail not, &c. Given under my hand, &c.

W. S. Steward there.

Then the Style of the Court is to be entred thus :

ff. Cur. Baron. ibidem tent. coram W. Manerium
S. Armigero, Senescallo Johan. Dutton Ar- de C.
migeri, Domini Manerii prædicti. secun-
dum consuetudinem Maner. illius, secundo
die Augusti, anno, &c. Vet. lib. Intr. 12.

G

Then

Then command the Bailiff to make an O yes, and say after you thus :

All manner of persons that have been warned to appear here this day, or have any thing to do at this Court, draw near and give your attendance.

Then if there be any Freeholders Court for entring Actions, let him say :

If any man will enter any plaints, let them come into the Court, and they shall be received.

And if any person will enter his or her plaint, it must be thus :

ff. A. B. queritur de C. D. de placito debiti (vel) transgr. (vel) de placito captionis & injusta detentionis Averiorum, &c.

And hereupon the proceeding for the ending of these suits must be as it is in the County Court, or in the Hundred Court. The defendant is to be called in by proceffe of Summons, and Attachment and distress, where the course is so : the Plaintiff to declare, and the Defendant to answer, as the case is ; and the matter must be put to issue, and determined either by a Jury, if both parties agree

agree to have it so, or the custom of the Court will warrant it; or by witnesses; or, which is the most proper trial in all these Courts in ordinary cases, by wager of Law, (that is) the Defendant's own Oath that he oweth not the money, and such honest men as the Court shall assign to swear with him, that they are perswaded he swears truth: except it be in cases where wager of Law will not lie. And after Judgment, the debt or damage recovered is to be levied of the party's goods, which being taken, may be sold to do it. But for the method of proceeding herein, see in *Wilkinson's Treatise of Court-keeping*, f. 148. and forwards; and in *Dalton's Treatise of the Office of a Sheriff*, fol. 157, 158. and forwards.

Then let him say, If any man will be essoined, let him come into the Court, and he shall be received.

And if any be essoined let it be thus entred :

ff. I. N. *esson. pro sect. Cur. per I. D.*

Then call all the Tenants, Freeholders, and Copyholders, and Leaseholders, that owe suit by Covenant, by their names, and apart.

2 d. 2 d.

*Jur. presentant quod A. B. & C. D.
sunt liberi Tenentes hujus Cur. & ad
hanc Cur. fec. default. Ideo ipsi amerc.
prout patet super eorum Capita.*

Homag.	{	A. B.	}	Jur.	{	I. K.	}	Jur.
		C. D.				L. M.		
		E. F.				N. O.		
		G. H.				P. Q.		

The Foreman's Oath.

YOU shall swear that you as
foreman of this Homagewith
the rest of your fellows shall duly
inquire, & true Presentment make,
of all such Articles and things as
shall be given you in Charge; and
therein you shall spare no man, for
love, favour or affection, nor Pre-
sent any man for malice, hatred or
envy: but according as things here
presentable shall or may come to
your knowledge, by information
or otherwise; so shall you make
thereof true Presentment, without
concealment. *So help you God.*

Then

Then call the rest of the Homage, and swear them by four at a time, thus:

The same Oath that *A. B.* your Foreman hath taken before you on his part, you and every one of you shal observe and keep on your parts. *So help you God.*

Then let the Bailiff call them by name, and bid them stand near, and hear their Charge.

Then give them their Charge to this effect.

YOU good men that are sworn, our work is short, and we cannot be long about it.

Our meeting is to keep a Manor Court, or Court Baron. We shall not stand to shew you the Antiquity or Originall of this Court, but in a word or two shall open the nature, use and end of the Court. It is called a Court Baron, for that it is a Court incident to every Mannor; which anciently or originally were the Courts

and Mannors of Barons. For the King, having all the Demesne Lands, with liberty to parcel it out, and reserve what Services they thought fit, and to keep Courts within their precincts, granted great quantities of Land to the Barons and great Men; and they granted away part of this, some to one, and some to another, to hold of them by such Services as they thought fit, and kept the rest in their hands. And hereof Mannors were made: which consist of Demesnes and Services. And they exercised that power of keeping Courts within these Mannors, which hath been continu'd as now we find it. So that these Courts, notwithstanding at this day they are kept by prescription and custom, yet, doubtless, originally came by the King's grant of them, the Fountain of justice, who can erect and make Courts; and gave to these Lords in their Courts

Courts the jurisdiction they now have to redress misdemeanours within their precincts, punish offences committed by their Tenants, and decide controversies within the Jurisdiction.

This Jurisdiction is double. The one part is for the trial of the Title of the Lands, for the taking and passing of estates, surrenders of estates, admittances and grants: and herein the Lord or his Steward, as the custom of the place is, is Judge. And the other is for the trial of Actions under forty shillings: & herein the Freeholders are Judges. And one of these may continue, though the other be gone. So that the main end of the Institution of this Court was for administration of Justice; but so as it hath reference to the good of this place onely, and not to the publick, as the Leet hath. In order to which end, you are put upon this Office

and duty, being bound by your Tenure to it, and engaged by a solemn and strict Oath to be faithfull in it. Your Office lieth in your Oath, and your Oath contains your Office; which is to inquire of and present the things which shall be given you in Charge, which are such things onely as concern the profit and advantage of the Lord and Tenants of the Mannor. In all which, according to the conditions of an Oath rightly taken, you are to do in truth, & to present what you know to be true, and perform what you have promised and undertaken, & to take heed of perjury in Judgment, with due consideration of your calling to, engagement and duty in this work; and in righteousness, to do Justice impartially between Lord and Tenant, and Tenant and Tenant, and to give to every one his own without respect of persons, or any partiality; the
which

which in this work of Justice you must carefully shun. And so we shall hold you no longer in the Porch, but lead you into the House, and shew you your work contained in the Articles of your Charge, which follow.

First, you are to inquire of such things which concern the Lord's benefit; as First, Of suitors to this Court: & for this you are to know, that all that owe suit to the Court, be they Copyholders, or customary Tenants, where-e're they dwell, or of what age soever they be, are to attend here to be Amerced. Where Partners have Land that oweth suit, the eldest shall do the suit, and Joyntenants may agree so: but of them and of Feoffees of land since, *Quia Emptores*, every one that hath any of the land must doe suit.

Item, if any of the Lord's Land, Customs, Rents, Services, Franchises, Royalties, Services or Evidences

dences be concealed or withheld from him, or Herriots, Wards, and the like, without his consent, by whom, and what it is, and how long it hath been withheld.

Item, if any incroachment be made upon the Lord's Lands, or upon the Common, without Licence of the Lord.

Item, if any Tenant take away his Hawks, Woods, Fish, Fowl, or take any swarms of Bees, Swans eggs, Partridge or Pheasants eggs, Hawk or Hunt in his Mannor, or do him other trespass in his Mannor, without leave of the Lord.

If any Tenant ought to grind at the Lord's Mill, and do not.

Item, if any of the Lord's Tenants, Freeholders or others, be dead, whose death is not yet presented, and by what Tenure he held his land, in Knights Service, or in Soccage, or by Copy, and what is come to the Lord thereby, and who
is

is his next Heir, of what age he is, and in whose custody, that it may be known what is due to the Lord; whether Wardship, Relief, Escheat, Herriot, or other profit hereby. If any Tenant be dead without heir general or special; or if any Bastard purchase land, and die without Heir of his body: for in these cases the Lord is to have the Land by Escheat.

Item, if any Tenant have aliened their lands, when, what, and to whom, and what is due to the Lord thereby, by the custom: for the Lord must know who is his Tenant, that he may know of whom to expect his Service.

If any Tenant that holdeth by Chivalry alieneth, to defeat his Lord of his Wardship, and other profits.

Item, if any Tenant have committed any forfeiture. Freeholders may forfeit by committing felony:
in

in which case after the King hath his year and day, the Lord is to have the land, by aliening his land in Mortmain.

Copyholders may forfeit by doing waste, letting houses fall, or be very ruinous by want of repair; or if he have two Copyholds, and impair one to amend the other; by doing Felony, by cutting down or marring Timber contrary to custom; by passing or letting their Land by Charter and Deed, for it must be by surrender; by letting for longer then a year and a day, according to the custom. If he be a Recusant, and the Lord no Recusant. By not paying his rent, or performing his services, as suit of Court and the like, especially if he deny and refuse it. Or if any Copyholder have surrendered into the hands of the Bailiff or Tenants to the use of another according to the custom, and the Bailiff or Tenants do

do not present it at the next Court: this is a forfeiture, if the custom be not against it. If any rescous or pound-breach be made of a distress taken by the Lord or his Bailiff within the Mannor, for any rent or service due to the Lord. If any remove the ancient bounds between Lord and Tenant, or one Lord and another, or between Tenant and Tenant. And many other ways he may forfeit his Copyhold.

Next we shall speak of the things which concern the benefit of the Tenants. For this you are to inquire, if any take Common that hath none; or having Common keep more then his number, or the quantity of his Land; or chase and rechase between two Farms in two Parishes; or put in Cattel not commonable; or inclose, dig, build upon, or otherwise abuse and oppress the Common, without Licence of the Lord; or any Tenant inclose
the

the Land which ought to be in Common.

And lastly, you shall enquire of all other things by me omitted, which you know to appertain to your Charge; and of all these, and the rest, make and return in to me a true presentment by four of the clock in the afternoon.

Then let the Bailiff make an O yes, and adjourn the Court till after dinner, as in the Leet. And then after dinner if any Surrenders or Admittances be to be made, or Actions to be tried, those things must be done. Otherwise call the Jury, take their Presentments, and swear two or more offerers, as in the Leet; and then discharge the Court.

CHAP. XVIII.

Of a Copyholder, and a Copyhold.

THE Copyhold estate is that for which a man hath nothing to shew but the Copy of the Rolls made by the Steward of the Lord's Court. For the manner is, That the Steward doth write out a Remembrance of this, (amongst other things) that such a one is admitted to such an estate; and this commonly is transcribed in Parchment, which transcript is called the Court Roll; the Copy whereof the Tenant hath under the Steward's hand: and this is all his evidence, and he can make no Title but by this Roll.

Rolls of
the Court.

The Copyholder is he which is admitted Tenant of any Lands within a Mannor, which time out of mind, by use and custom of the Mannor, hath been demised and demisable to such as will take the same in Fee-simple, Fee-tail, for life, years, or at will, (as the custom is) according to the custom of the said Mannor, by Copy of Court Roll of the said Mannor. *West. 1. Symb. lib. 2.*

Sec.

Señ. 646. Coke 4. 25. Litt. Señ. 13.

So that to make a Copyhold estate, two things are requisite.

1. It must be a parcel of a Mannor.

2. It must be demised, or demisable, time out of mind, &c. And if either of these fail, the Copyhold Tenure is gone. For this cause the Tenure cannot be made at this day, unless it be made by Act of Parliament. *Stat. 35 H. 8. 13. Co. 1. part Inst. f. 58.*

These Tenants in most places are called Copyholders and customary Tenants; but in some places they are called Tenants by the verge, base Tenants, or bond Tenants, &c. And so are the Lands called; base land, bond land, &c.

The grant of this Tenant is at the will of the Lord. So the Tenant was anciently a bond-man, and his Tenure a base Tenure: but time hath changed both, and now he and his estate both are so far free, that if he pay his rents and do his services according to the custom of the place, the Lord cannot hurt him or his estate. *Co. 4. 29.*

And if he or any other evict him, he shall have relief against them, whereof see afterwards.

If

If any of the Tenants will transfer or alien any of their Copyhold Lands, it must be done by way of surrender to the Lord or his Steward, or some of the Tenants, according to the custom of the place, to the use of such person who is to have it for the time agreed upon between them; and then the party is to pay his Fine, and to have it from the Lord according to the surrender, and to have it entred, and a Copy of it, according to the custom of the place: and if the Lord after surrender refuse to admit, or die, or his estate end before admittance, he or his successour shall be compelled to make the admittance. And by Deed or otherwise such a Tenant cannot alien his land without committing a forfeiture, no not by way of exchange with another Tenant. And if the Copyholder will devise it, he must surrender it to the use of his last will, and declare his intent. *Co. of Copyholds*, f. 35. And for this the Tenant need not alledge a custom, for this is Common Law: So neither for a surrender out of Court into the Lord's hands. But to surrender to three of the Tenants, or else to the Bailiff or Reeve out of the Court,

1. How the Copyholder may grant the land.
Surrender.

Admit.

Alienation.

Custom.

to make this surrender good, there must be a special custom alleaged for it. *Co. 1. part f. 59.* And yet by a deed of Release he may extinguish his right to a Copyhold whereinto another is before admitted, and hath such an estate, as upon which the Release may enter. As if a surrender be made out of Court to the use of *J. S.* and it is not duly presented according to the custom, and therefore void; yet *J. S.* is admitted accordingly, and after he that hath the right doth by Deed release all his right to *J. S.* this will bar him, and make good the estate. Contrary, where the estate to pass by the release doth pass by way of enlargement. As if a Copyholder by Licence lease for years, and then doth release to the Lessee for years. But I may surrender my reversion into the Lord's hands, and he may grant it to the Lessee. *Co. of Copyhold, fol. 100.* So where no precedent estate is by admittance, as if one disseise the Copyholder, and the Copyholder release to the disseisor, these releases are void. *Co. 4. 25.* One Copyholder being ousted by another cannot release to him. If a Copyholder be ousted, and the Lord admit him that ousted

Presentment.

ousted him, by his release the Copyholder may extinguish his right. *Coke chap. 114.* And yet if a surrender be made out of Court upon condition, and presented as absolute, and so the admittance is made, the surrender by release may make it good. *Co. of Copyhold, f. 101.* But if I be ousted, and the Lord admit him according to the custom, I may release to him. If a Copyholder do bargain and sell his Copyhold land to his Lord without any Surrender, it is said this will pass it; but if his estate be an estate of Inheritance, *Contra per Curiam M. Jac. B. R.*

These estates are in some cases ruled according to the Common law, and in some cases according to the custom. And therefore if such a Copyholder be put out of his land by his Lord, or any other; heretofore he had no remedy but in the Lord's Court, or in Chancery: yet at this day he may have remedy against his Lord or any other by *Ejectione firma*, or Trespass, or in Chancery, as a man that hath such an estate by Deed. *Co. 4. 21. 29. 22. &c.* And if he make a Lease rendring rent, he may bring debt for it; and if one cut his trees, he may

2. Consider according to Common Law.

Ejectione firma.

Estates in
Fee-sim-
ple, tail,
for life.

have an Action of trespassse.

The same words which will make estates in Fee-simple, Fee-tail, for life, &c. upon a Deed will make estates by Copy : and therefore if a Surrender be to the use of *I. S.* without limitation of any estate, hereby *I. S.* shall have an estate for his life onely ; and yet by custom in some places it is otherwise. And if a Copyholder in Fee surrender *Habend.* after his decease to the use of his child, *in ventre sa mere*, and the heir of this child ; and if it die before marriage, or full age, then to the use of *I. S.* and his heirs ; by this the Father hath an estate for life, and the limitation to the child is void ; and so it seems is the remainder also. *Co. 4. 21, 22, &c.* For a Freeholder cannot commence *in futuro*, nor one Fee depend on another. *Simson's case adjudg. Mich. 13 Jac. B.R.* And descents of this land as well as the creation of the estate shall be guided by the rules of the Common Law, except there be any speciall custom in the place to the contrary, the eldest son shall inherit, *Possessio fratris facit sororem esse heredem*, of the Land in a Fee-simple: otherwise it is in the issue of
a Co-

a Copyholder in tail. This land may be entailed by custom; *Co. of Copyhold, f. 136.* and the issue shall have a *Formedon in descender.* If one have issue a Son and a Daughter by one *venter*, and a Son by another, and the eldest purchase a Copyhold in Fee, and die without issue, the Daughter shall have the Land. *Co. of Copyhold, f. 143.* Entail.
Custom.

If one have a Copyhold estate to the heir of the mother's side, and he die without issue, it shall go to the heirs of the mother's side, and shall rather escheat then go to the heirs of the father's side. But if I purchase Copyhold Land, and die without issue, and have no heirs of my father's side, it shall go to the heirs of my mother's side. If there be father, uncle and son, and the son purchase this Land and die, it shall go to the uncle, not to the father. So if there be three brothers, and the middle purchase this Land, and die without issue, the eldest shall have it. And if there be two partners or Tenants in Common of this Land, and one die having issue, his heir shall inherit, not the survivor. *Contra of Joyntenants. Co. of Copyholds, Sect. 50. Calthrop, f. 88, 89, 92, 93.*

3 Consider
according
to custom.

But in other things they differ from other Inheritances, and the rules of the Common Law; and therefore these Inheritances, except there be a special custom for it in the place, have not these collateral qualities which concern not descent, as other inheritances have. For such Land so descended shall not be accounted Assets in the Heir's hands to charge him upon an obligation, the wife shall not be endowed, the husband not Tenant by the courtesie, descent shall not take away entry. *Co. 423.*

Assets.

Dower.
Courtesie,

Disconti-
nuance.
Statute.

A Surrender made by a Tenant in tail of his Land, (admitting it may be entailed) or by a husband of the Copyhold he hath in the right of his wife, makes no discontinuance. *Co. of Copyholds, f. 144.*

If the Lord enter into a Statute, or take a wife, and after the Copyhold become void, and in the Lord's hands by Surrender, forfeit or escheat, whiles it is in his hands, it is liable to this charge: But if he grant it anew, according to the custom, the Copyholder shall hold his estate discharged of both. *Co. 8. 63. 4. 13.* The true reason is, because when the Copyholder is once admitted, he is

But

in

in by custom, which is paramount the grant: therefore if the Lord grant a rent-charge, and then grant the Copy, yet shall the Copyholder hold the land discharged of the rent as it seemeth, though then he be not his Tenant. 8. *rep. 63. b.* For no stranger can be his Tenant without his consent. *Calthrop, f. 98. Contra.* So if the Feoffee of a Mannor on condition, before the condition broken, make Copyhold estates, they are good. *Co. 4. 4. 24.* If the Copyholder acknowledge a Statute, and then surrender, the Land is not liable. *Calth. f. 98.* If Tenant in tail (without a special custom) or Copyholder in the right of his wife surrender, this is no discontinuance. *Co. 4. 23. Dier 263.* So if the Lord make a Lease for years of the Mannor, (excepting all woods and underwoods) and the Lessee make grants by Copy according to the custom, the Copyholder shall have wood in these woods according to the custom. *Co. 8. 107.* So if the Copyholder be used to have Common of Pasture or Estovers in the Lord's woods or waists, and the Lord alien the woods or waists to another in Fee, and after make a Copyhold estate

Condition.

Discontinuance.

Grant. Exception.

Common.

Charge.

according to the custom, the Copyholder will have Common there as hath been used. *Co.* 8. 63. But in this case the custom in pleading must be laid specially, otherwise it is of a Lease for life by Deed. As long as a Copyhold of Inheritance is in the Tenant's hands, it is not liable to any estate, or charge of the Lord, as *Dower, Curtesie, Elegit, Statute, &c.* but when it is in the Lord's hands it is liable. *Co.* 4. 22. But a custom in this case may make it chargeable. *Calib. f.* 88, 89, 92, 93.

CHAP. XIX.

What grant of a Copyhold estate shall be esteemed good or not.

1. In respect of the Mannor of which the Land is parcell, and of the Court in which the estate is granted,

DIvers things are requisite to make a good grant of a Copyhold estate.

1. There must of necessity be a good Mannor and Court continuing; for a Copyhold estate cannot be made without a Court, and a Court cannot be without a Mannor: and then there must be a Custom for the allowance thereof, and this custom must be in the same Mannor: a Lord to give the Copyhold,

a Te-

a Tenant of capacity to take, and the thing to be granted; which must be grantable, and may be held according to the Tenure. But for the opening of these things it must be known, touching a Mannor,

1. That a Mannor cannot be made at this day.

2. Albeit it cannot be made at this day, yet it may be marred: For a Mannor may be dissolved many ways. As ^{Mannor} first, if the Court Baron (which is incident to every Mannor) be destroyed: For the Court and Mannor stand and fall together. And therefore if all the Freeholders but one escheat to, or be ^{destroy.} Court depurchased by the Lord, hereby the Mannor is destroyed: For there must be two Freeholders at least to support the Court Baron, and two Copyholders at least to support the customary Court. So if the Lord suffer all his Copyholds but one to fall in hand, or make a Feoffment of all but one, hereby the Mannor is dissolved. But here this difference must be heeded: That there being (as we have shewed before) in every Mannor where are Freeholders and Copyholders, two Courts, a Court of Freeholders, which is by Com-

● Judge.

Common Law for the trial of actions, wherein they are Judges, and a Court of Copyholders, which is for the surrendering and granting of estates, and making admittances, and wherein the Lord or his Steward is Judge; that one of these may stand without the other: and therefore if the Lord sell the reversion of all his Copyholds in Fee to one man, this man hath a Mannor and a Court to this purpose, and may do all touching Copyhold estates which the seller might have done; and he that sells may do all that belongs to the Freehold Court, as he did before. *Co. 4. 26. 6. 64. Co. 1. part fol. 58.* So if the Lord make a Lease for years of all his Copyhold Lands; it seems the Lessee for the time of the Lease may keep Courts, and grant estates. But if the Lord make a Feoffment or Lease of one or of some of the Copyholds onely; it seems this Feoffee or Lessee cannot keep a Court, and therefore the Mannor as to this parcell is destroyed. If the demans be once by the act of the party severed from the services in Fee-simple, or the Copyholds from the Mannor, hereby the Mannor is destroyed for ever. *Co. 4. 26. 6. 24.*

If

If one have a Mannor, and grant the Moiety of it to another, hereby the Mannor is destroyed by *Just. Jones* opinion. So if the Lord sell away the Inheritance of all the Copyholds to severall persons, hereby the Mannor and Court of Copyholders is dissolved. *Quare.*

And if the severance be but for an instant, and without any transmutation of possession, yet the Mannor is destroyed. But by Act of Law a Mannor may be divided: as when a Mannor descends, and is divided between two Partners, that one have one part of the Demesnes and Services, and another the other part; each of them have a Mannor and a Court.

If one Mannor held of another escheat, they are united and continue both.

And yet if a Court Leet, Waif, stray, Franchise wreck, and the like, be together by Prescription, albeit the Mannor be destroyed, yet the Leet, Waifs, &c. continue. *lost.*
Calthrop, fol. 13.

2. As a Mannor may be dissolved, so it may be suspended for a time and revived again. As if a Mannor come to Partners, and one upon the division hath all the *Suspension of a Mannor.*
the

*Fortior est
dispositio
legis quam
hominis.*

the Services, and the other all the Demesnes, and after one of them die without issue, so that his part cometh to the other also: by this the Mannor is revived again. More strong is the disposition of the law then of man. *Co. 4. 26.*

The Court must be kept in some part of that which is within the Mannor; for if it be holden out of the Mannor it is void: except by custom, he having two Mannors, have time out of mind kept one Court for both. *Co. super Lit. f. 58.*

2. In respect of the Lord of the Mannor and his estate.

2. The thing required to the making of a good grant by Copy of Copyhold Land is a good Lord: That is, the party that makes the grant must be seised, (i.) he must be in possession in, and have a good right or title to the Mannor, of part whereof the estate is made. For the opening of which point, these things are to be known. That any person who may be a good granter in a Deed, may be a good granter of Copyhold estate: and that any person, man or woman, that hath a lawfull estate in a Mannor for a time, may be a good Lord, to grant Copyholds, take Surrenders, make estates and admittances, according to the custom of the Mannor, notwithstanding the disability

ability of his person, or exility of his estate. And therefore it is held that a Lunatick or man *non compos mentis*, an Infant, an excommunicate person, a person outlawed in an Action personal, a Felon before his attainder by Outlawry, verdict, or confession, being Lord of a Mannor, may grant Copyhold estates for any time according to the custom of the Mannor, as another man may do, and the estates made by them are unavoidable. So a villain purchaser of a Mannor and alience in mortmain may make Copyhold estates till the Lord do make his entry. *Co. of Copyholds* f. 89.

Non compos mentis.
Infant.
Outlaw.
Felon.

A Tenant in tail for life, years, in Dower, by the curtesie, by Statute or *Elegit* of the Mannor, may make Copyhold estates, as well as a Tenant in Fee-simple. So may a Tenant at will of a Mannor by Copyhold, or at Common Law; and this of Copyholds in reversion as well as Copyholds in possession. And therefore if a Tenant for life of a Mannor grant a Copy in reversion according to the custom, and die before the Copyholder; this is a good Copy in reversion against all the succeeding Lords. *Adjudge 29 El. B.R. Sr. Pet. Garews case.*

Lessee for life, years, or at will.

If

If one be seised of a Mannor for life, wherein are Copyholds of Inheritance, and a Copyholder doth surrender to the use of a stranger in Fee, the Lord may grant and admit accordingly, and this will bind him in reversion; but if the Copyhold be onely grantable for lives, it is said then, the Lord, upon surrender, cannot grant more then for the life of the granter. But if the Lord of a Mannor for or during the Minority of a Ward, of which the Copyholds are demisable for three lives successively and not severally, if in this case the Copyholder dieth, the Lord may grant it being void for three lives at his pleasure, and this shall bind him in the reversion, or his heir at full age. *Calth. Read 50.*

Quare.

If a Copyholder in Fee surrender to the use of the Lord for life, the remainder to a stranger in Fee, or keepeth the reversion to himself, the Lord cannot grant this in Fee by Copy. *Nemo potest plus Juris in alium transferre quam ipse habet.*

Grantee
on condi-
tion.

So may a Feoffee or Lessee of a Mannor on condition, till the condition be broken. And yet a Lease for life by Deed in this case will be avoided. And it is held

held by some, that if a Lease be made for life on condition, and the Lessee after the condition broken, and before entry of the Lessor, make Copyhold estates, that these are good, because this Lease is not void; but voidable at the pleasure of the Lessor. *Coke of Copyhold*, 89.

If the Feoffor or Lessor after the condition broken keep Court, and make Copyhold estates, these are good; for the keeping of the Court is an entry in law. *Calthrop*, *Read* 64.

If a Feoffee of a Mannor on condition to enfeof another of it the next day, the same day after he hath the Mannor make Copyhold estates, they are good; for it sufficeth if he be lawfull Lord for the time. But if a Tenant for life of a Mannor make a Lease for years of it, and die, and then the Lessee for years maketh Copyhold estates, these are avoidable by the first Lessor. So if a Lessee for years of a Mannor grant a Copyhold in reversion, and before the reversion happen, the Term is expired, the grant is void: and so it is if the Lessee surrender his Term, and before the Lease should have ended, the reversion hap-

happeneth, yet the grant is not good.
Co. of Copyhold, 88.

Gardein
in Chival-
ry.

A Gardein in Chivalry that hath a Mannor of the Wards may make Copyhold estates upon it. The husband and wife within a Mannor he hath in right of his wife, but not the wife alone, may make Copyhold estates; nor may the husband alone (as it seemeth) make estates.

Husband
and wife.

If the husband and wife in Frank marriage make Copyhold estates, and they be after divorced, the estates made before the divorce are good; so if the wife be after divorced for infancy.

Devise.

If one seised in fee of a Mannor, by his will in writing devise, that his Executors shall sell or make Copyhold estates according to the custom for payment of his debts, or the like, they may make good estates accordingly. *Co. upon Litt.* 58. And yet if the Lord devise that his friends shall keep Courts, or make Copies, and no more, this is not good. *Calth. fol.* 95.

So if one die seised of a Mannor, having a daughter, his wife privily with child of a son, the daughter may make Copyhold estates till the son is born.

A Corporation, Bishop or Prebend Corp^s Possessed of a Mannor, may make Copyhold estates. *licick.*

If a Parson that hath a Mannor, after Parsons Institution, and before Induction, make Copyhold estates, it seems these are not good; so if after Induction he do not read the Articles, and he be after removed for this. But if he be deprived after for any crime, his grants before are good. *Co. of Copyholds, f. 89, 90.*

If the Lord acknowledge a Statute, and after make a Copyhold estate, and then it is extended, this will not hurt the estate. So if the Lord take a wife, and then make a Copyhold estate, and then dieth, the wife's dower will not hurt the estate, though she be endowed of the Mannor. And yet if an heir after the Lord's death make Copyhold estates, and after the Mannor is assigned to his wife, she may haply avoid this. *Co. of Copyholds, 84.*

Tenant by Statute.

Tenant in Dower.

If the Lord make a Feoffment in Fee, Lease for life or years, of all his Copyhold, the Feoffee or Lessee may make Copyhold estates, take Surrenders, Admittances, &c.

But if the Lord grant the reversion of

one Copyhold, neither he nor the grantee, nor both of them together, are able to grant any Copyhold estate of this Land.

If the Lord release all the Services of the Freeholders of the Mannor, or all the Freeholders estheat, yet the Lord doth continue a good Lord, and able to make Copyhold estates of the Copyhold Lands.

In all cases where the Lord may make Copyhold estates *de novo*, he may take Surrenders, and make Admittances.

Disseisor. Abator. But in these cases and these persons, a Disseisor, Abator or Intruder in a Mannor, the Heir or Feoffee of a Disseisor, Grantee of a Tenant in tail, one that holdeth after his estate is ended as a Feoffee or Lessee upon condition, after the condition is broken, one that hath no estate at all, or no good estate, or the Copyhold is destroyed; these cannot make any Copyhold estate by way of voluntary grant, or take Surrenders, and make new grants accordingly.

Admittances. And yet it is thought that a Disseisor of a Mannor, or any such Lord that hath a possession onely of a Mannor, may make admittances upon descents, or do any

any such like Act, and that this will bind him that hath right. *Co. 4. 27. 8. 63. 64. 1. part 58. 74. Calthrop, f. 98. 94. 90. 91. Co. of Copyhold, 36. 80. 87. Dyer 375.*

And yet if the custome be destroyed by granting away the Reversion, or where there is one Copyhold onely left, in this case he cannot make admittances, or do any thing as Lord. *Co. 4. 27.*

To make a good grant of Copyhold Land, there must be a good Steward of the Court wherein the state is granted. And as touching this point, these things are to be known.

1. Any man may be a Steward: And therefore if an Infant, Lunatick, *non compos mentis*, outlawed, or excommunicated person, be made Steward; all Acts that he doth according to his office are good.

1. In respect of the Steward of the Manor.

And of the Steward of a Court. Lunatick, Infant, Outlaw.

2. He may be retained by word, as well as by Patent; otherwise it is if it be a Stewardship of the King's Court. And any colourable authority may be sufficient to make a man a Steward to this purpose: yea it is held that a copyhold granted by an under-Steward without authority from the Lord or high-

Steward is good. *Co. 4. 3. of Copyhold, 126. 27. Calthrop, f. 73.*

Judge.

3. His authority is derived wholly from the Lord, whose person he doth represent, and under him in his absence he is Judge of the Court.

Licences.

4. He must do all in the Lord's name: As if he take surrenders, make Grants or Admittances, or give licence to alien where he hath a special power from the Lord, or is enabled by special custome so to do, he must do this in the Lord's name. *Co. of Copyhold, 125.*

Admittances.

Licence.

5. The Steward cannot do so much as the Lord himself: for the Lord himself may make Grants or Admittances in what place he please, without as well as within the Mannor; but the Steward cannot do so without the Mannor. And the Lord may give licence to his Tenant to alien his land by Deed. But it is doubted whether the Steward can so do or not in Court, without a special custom of the place, or a special authority from the Lord to enable him thereto. *Co. of Copyhold, f. 124.*

Forfeiture of Office.

6. This Office may be forfeit many ways. 1. By abuser; as if the Steward burn the Court Rolls, or be corrupt in Judi-

Judicature, or the like. 2. Non-user; as when he is bound by his Patent to keep Court at certain times of the year without request, and the Lord be prejudiced by this omission. 3. Refuser; as if he be bound to keep Court upon demand, and do not, albeit the Lord have no prejudice by it, yet it is a forfeiture. *Co. of Copyhold, f. 129.*

7. The Steward may appoint an Under-Steward. See for this *Co. of Copyhold, f. 132.*

Any one that may be a good granter in a Deed at common Law may make a good Surrender, or grant of Copyhold Land: and as to this point these things are to be known. 1. Any Body corporate, or politick, being Lord, may make a Grant, or being Tenant, may make a Surrender of Copyhold land. 2. Grants by Lords, and Surrenders by other Tenants, as Felons before Attaindor, Bastards, Hereticks, Lepers, deaf, dumb, or blind men, are good. 3. He that is not a good granter, cannot make a good grant or surrender of Copyhold Land, without a special custome to enable him thereunto. And hence it is, that Surrenders made by Infants, Aliens,

4. In respect of the Person which doth make the grant or surrender.

Lord or Copyholder. Felon. Bastard. Hereticks, Lepers. &c.

Infants. Aliens.

Ideots, &c. Ideots, such as are born deaf, dumb and blind, and women covert without their husbands, are not good. And yet it is held that a woman covert being joynt Tenant with another may surrender her own part to the use of her husband. But I doubt much of this. *Co. 4. 26, 27. Co. 1. part f. 42. of Copyholds, f. 90. Calth. f. 93.*

Feme covert. 4. A woman covert cannot surrender with her husband, but she must be first examined by the Lord or his Steward, and this cannot be by the Tenants. *Calth. f. 86, 87.* 5. Such persons as may grant or surrender, cannot grant more then they have. And therefore if the Copyholder be a Jointenant, he can grant but his own part; he that is copyholder for life only, can surrender but for his life. And yet if there be two Jointenants of a Mannor, and a copyhold escheat, and one of the Lords grant this copyhold alone; this is good to bind his companion. *Co. of Copyholds, f. 91.*

Jointenant.

3. In respect of the person to whom, or to whose use it is made. Any one that may be a good grantee by Deed may be a good grantee by copy, and a good copyholder. And herein these things are to be known. 1. A surrender or grant of copyhold Land may be made to Lunatick, Bastard, man

of

of unsound memory, person attaint of *Non compos mentis, &c.* Felony, Mayor and Comminalty, Infant, outlawed, or excommunicate person, Feme bondman, or feme covert. But a Monk or Friar cannot be a Copyholder. And it is doubted whether an Alien born may be a good Copyholder or not. *Perk. Sect. 52. Co. of Copyhold, 97. Calthrop, f. 52.* 2. The surrender to the use of a feme covert is good, till her husband disagree to it. 3. In case of an Infant or feme covert as to the Lord's service, for the Infant, it must be done by the Gardein or prochein Amy, and for the wife by the husband. 4. The Lord shall retain the Land of the Ideot, or Lunatick, till he come to himself: So some say for the Infant's Land till he be of age. *Calthrop, f. 52. 65.* 5. A surrender may be of Copyhold Land to the use of the Lord himself, and he may have a Copyhold to his own use. *Co. of Copyhold, f. 94.* doubted by *Calthrop, fol. 52.* 6. The husband may surrender to the use of his wife, and by a special custom the wife may surrender to the use of her husband. *Co. 4. 21. 30. of Copyhold, 94.* 7. One Jointenant may surrender to the use of another Jointenant. 8. A surrender may be

Lunatick.

Infant.

Husband and wife.

Jointenant.

Incertain-
ty.

Attorney.

Joynte-
nants.

6. In re-
spect of
the place
where it
is done.

7. In re-
spect of
the thing
granted.

of Copyhold land to the use of him that shall be heir of I. S. or the next child of I. S. or next wife of I. S. or to him that I. S. shall name; & is good: for nothing passeth till admittance. Otherwise it were of such a grant by Deed. *Co. of Copyhold*, f. 97. 98. Inquire. And a surrender to the use of the right heirs of I. S. being alive is void. 9. A good grantee may take by Attorney. *Co. of Copyhold*, f. 95. 10. A grant of Copyhold Land may be to two or more, and they shall be Joyntenants. *Kitch.* f. 11.

The Lord of a Mannor himself in person may make any grant of Copyhold Land, or take any Surrender, or make any admittance hereof, or a surrender, or descent in any place, as well without as within the Mannor, and as well without as within the Court. But the Steward must do it within the Mannor, and in Court, or it is not good. And yet by a special custom of the place a surrender may be made to the Steward, or to some of the Tenants out of Court, and this is good.

The thing granted, or surrendered, must be, at the time of the thing done, parcel of the Mannor. For the opening of which

which point, these things are to be known.

1. A Customary Mannor which hath Copyholds within it, may be held of another Mannor, and be granted by Copy as other Land may be. *Co. 11. 18.* So may Houses, Land, Meadows, or Pastures, and whatsoever doth concern them which is of perpetuity and parcel of the Mannor, as a common, advowson, or fair appendant, the vesture of herbage of Land, Underwoods out of a great wood, and that without the soil, if they have been usually demised by Copy. And if the thing granted be uncertain, it may be made certain by election, as in other cases of grants at common Law. *Co. 1. part Inst. f. 58. of Copyhold, 117, 118. Co. 4. 31. Co. 4. 31. 37. Co. of Copyhold, 120.* But such things as lie not in Tenure, as a rent Bailiwick, or Stewardship, commons or advowsons in gross, which are incorporate Hereditaments, out of which no rent can issue, are not grantable by Copy. So the Lord's Demesnes which were never let by Copy are not grantable by Copy. And yet if in this case the Lord grant them by Copy, he himself cannot avoid the grant, but

For the nature of it.

Uncertain-ty.

Excluded from the grant

but it will be good against him for his life. Inquire how he shall plead it ; as grant by Copy or by Lease parol.

Parcel of
the Man-
nor.

2. The thing granted must be, at the time of the grant made, parcell of the Mannor, otherwise the grant will not be good. And therefore if the Lord make a Lease for years of the reversion of one of his Copyhold Tenements ; this Tenement (*Inquire 1 Inst. 325. a. Plow. Com. 103. 6.*) during this term is no part of the Mannor, and therefore cannot be granted by Copy in the Lord's Court. But this haply may be in time reunited to the Mannor, and then grantable. But if a feoffment be made with or without a deed by the Lord of the Mannor, of one Copyhold Tenement ; by this the same is divided for ever from the Mannor, and cannot be granted by Copy. And yet the grant made before the severance is good. So if one grant his Mannor (except one Acre,) and after grant this Acre by Copy, this is not good, because at the time of the grant it was not parcel of the Mannor. *Co. upon Litt. 324, 325. of Copyhold, f. 82. Dyer 281.*

Demised,
or demi-
sable by
Copy.

3. The things granted must be demised, or demisable time out of mind, by Copy ;

Copy ; that is, it is either let by copy at the present, or capable of being let by copy, having been so let, and not by Lease, time out of mind. And if when it were last let, it was let by copy, and be now come into the Lord's hands, and he never let it for many years together by Deed or otherwise ; this hindereth not but that it may be let by copy. And in this case it matters not how it came into the Lord's hands, whether by escheat, or forfeiture, or surrender : and yet if the Lord purchase the Copyhold of the Tenant, or it escheat, some have doubted if it be not extinct, and so not grantable again. But upon little reason as I conceive. *Calthrop, f. 16. 86. 91. 90. Co. upon Litt, f. 38. Calib. 55.* And if a Copyholder forfeit his Land by wast, and a seisure is awarded, but the Lord suffereth the Tenant to occupy the Land twenty years together without receiving rent ; he may after grant it by copy. But if after seisure awarded a stranger enter, disseise him, and make a feoffment in Fee, and then the Lord re-enter and grant it by copy ; this is not good by *Calthrop, f. 25. Quere,* for a disseising and feoffment cannot alter the nature of the

the Land. If a man will overthrow a Copyhold estate under pretence that it hath been let by Indenture, or otherwise then by Copy, he must shew it to be within the time of man's memory : for if it hath been let by Copy for fifty or sixty years, it will hardly be admitted to the contrary. *Calth. f. 19. 85.*

The Heir of a Copyholder in Fee hath before his admission such an estate in the Land that he may surrender it, or bring trespass ; and if he die, his Heir shall have it by descent. *Dyer 291. 302. Co. of Copyhold, 4. 21.*

If a Copyholder surrender his Land, to the intent that a stranger may have a rent out of it ; this is not a good Copyhold rent, by *Calthrop, f. 92.*

No Copyhold land can pass from the Lord to his Tenant, nor from one Tenant to another, but by way of grant, or surrender in the Court of the Mannor, according to the custome of the place. And as touching this point these things are to be known.

8. In respect of the Mannor and Order of the grant. And of Grants, Surrenders, Presentments and Admittances.

1. In some grants a surrender is sufficient without Presentment or Admittance : in some an Admittance without a Surrender or Presentment : in some a
Sur-

Surrender and Admittance are both necessary: and in some a Surrender, Presentment and Admittance are all necessary. As if the Copyholder surrender to the Lord's use, there needs no admittance. And if the Lord make a voluntary grant of a Copyhold in his hands, no surrender is needful, but admittance only. If the Copyholder surrender in Court to the use of a stranger, besides the Surrender admittance is requisite. And if the Surrender be made out of Court to the Lord himself, which the general custome will warrant, or into the hands of the Bailiff, or of two of the Tenants, (which by special custome only is warrantable) in this case there must be, besides the Surrender, a true Presentment of the Surrender in Court by the same persons into whose hands the Surrender was made, and an Admittance of the Lord according to the effect of the Surrender and Presentment. *Co. of Copyhold, Sect. 38.*

2. A grant may be of Copyhold land in Fee-simple, Fee-tail, for life, or years, in possession, or reversion, as the custome expressly or interpretatively will warrant it. *Co. of Copyhold, Sect. 47.* But the

Fee-simple,
Tail,
Life,
Years,

the Lord without a custome cannot grant a Copyhold in reversion. 15 Car. B. R.

3. If the Lord, having Copyhold land in his hand, grant it by Deed or Fine, to hold at will, according to the custome of the Mannor, this is not good to make a Copyhold estate. *Calthrop, f. 47.*

Ancient
rent.

4. In all good grants of Copyhold estates, it seems the ancient rent must be reserved, not onely in quantity, but in all beneficial qualities. And therefore it is held, that if the ancient rent were in gold, and the new be in silver, or the old were payable at four days, and the new be payable at two days, these are not good Copyhold grants. But this (it seems) is to be understood of Copyholds of Inheritances, and Admittances into them. *Co. of Copyholds, fol. 109, 110. Calth. f. 88, 89, 91.*

Surren-
der.

A Surrender is the giving up of the land by the Tenant to the Lord according to the custome: and this is entred in this manner: To this Court came *A.* of *B.* and hath surrendred in the same Court one messuage, &c. into the hands of the Lord to the use of *C.* of *D.* and his heirs, or the heirs of his

his body issuing, or for term of his life, &c. and hereupon came the aforesaid C. of D. and took of the Lord in the same Court the messuage aforesaid, &c. To have and to hold to him and his heirs, or to him and the heirs of his body issuing, or to him for term of life, &c. at the will of the Lord according to custom of the Mannor, doing and paying therefore the rents, services and customs therefore due, and accustomed; and he giveth to the Lord for his fine, &c. and hath done fealty to the Lord, &c. Herein are many things to be known.

1. This may be absolute, or upon condition; and it may be rendring rent on condition of re-entry for not payment. *Coke 4. 21. 30.* And if he enter for the condition broken, it is in him as at the first without admission.

2. It may be to the Lord himself, or his Steward, or his Tenants, or his Reeve or his Bailiff, as the custom is. And it may be to the Lord out of Court: but it cannot be to the Steward out of Court without a special custom to enable it. Custom. *Mich. 37. & 38 Eliz. Bright's case.*

3. It is in some cases necessary, and in some cases not. See for this.

4. When

4. When it is necessary, it must be made, first by a Copyholder, and Admission, otherwise it will not help. Secondly, it must be made to the Lord, that can make Copyhold estates, or some other to his use, as the custom is. Thirdly, if it be out of Court, it must be presented at the next Court, according to custom. Fourthly, the Lord must admit accordingly; or else (as some say) the surrender is void. *Kytch* 82. 60. *Co.* 4. 27. *Co.* 1. par. 61, 62. *Calthrop*, f. 97. Fifthly, this cannot well be made by any other word, but by the word *Surrender*. And therefore if it pass in the Court by the word *give*, *grant*, *bargain*, or *sell*, this will not pass it, but the Heir of the Copyhold may avoid it. *Co. of Copyhold*, 103. And yet if a Copyholder come into the Court, and desire the Lord to admit his son into his Copyhold, some think this is a good surrender to the use of his son, *Calthrop*, f. 57. But if the Tenant come to the Lord, and tell him that he is willing, for his son's preferment, that he shall have his Land presently, and desire the Lord's agreement, who doth so; it is said this is no good Surrender. And yet if the Homage do
after

Words of
Surrender.

most

after present it for a surrender, it is more questionable. *Calth. f. 59.* If a Copyholder in the presence of other Copyholders of the Mannor say he is content to surrender his Copyhold to the use of *I. S.* this is not a good surrender. But if he say he doth surrender into the hands of the Lord to the use of *I. S.* if the Lord will thereunto agree; this is a good surrender, whether the Lord will or no. So if the Tenant resign his interest in the Court into the Lord's hands, therewithall for him to do what he will; it seems this is a good surrender. If the Copyholder say in Court, he will be no longer Tenant to the Lord, and this be recorded; this is no surrender. If a Copyholder for life take a new estate for life; this is a surrender of his first estate for life: but if the second be by Deed, inquire. *Calth. 59.*

5. A surrender may be made of a Copyhold by Attorney, if there be custom in the place against it: it is not of necessity that the Copyholder be present in Court. But if this power be by special custom, it cannot be done by Attorney. As if a Copyholder have a power to make a Lease for twenty years

K

after

Infant.

after his death; or an Infant have power to make a Lease at years of discretion; or a man may surrender out of Court to the Tenants; these things cannot be done by Attorney. *Co. of Copyhold*, 93. *Co. 9. 76.*

6. If a Copyholder in Fee surrender to the use of himself for life, and after to the use of R. his son for life, and after to the use of his last Will; this is a good surrender, and the estate may be made accordingly. *Co. 4. 23.* But a surrender after a man's death to the use of a man's last Will, is not good. If a Copyholder in Fee surrender, to the intent that the Lord shall re-grant to him for his life, the remainder to his wife, till his son come to 21 years of age, and after to his son in tail; this is a good surrender, and is to be executed accordingly. *Dyer 251.* And if two Joyntenants be, and one surrender his part out of Court into the Lord's hands to the use of his last Will, and by his Will deviseth his part to a stranger in Fee, and die, and at the next Court this is presented; this is a good surrender, and by this the Joynture is severed. *Co. 1. part 59.*

Joyntenants.

7. If a surrender be to the Lord generally,

nerally, without saying to whose use ; it is good enough. *Kytch.* 81.

8. If the Copyholder surrender to the use of another, and the Lord grant it to the *cestuy que use*, not naming the surrender ; this is good enough by *Calthrop*, f. 99.

9. In a surrender it matters not whether the party to whose use it be, be precisely expressed, if by any circumstance he may be known. And therefore a surrender to the Archbishop of *Canterbury*, Mayor of *London*, next of his kin, or next of his blood, his brother, his sister, or his son, may be good, and it may be made certain by averment. So if it be to a man's wife, without naming of her, or to the high Sheriff of *Norfolk*. But a surrender to the use of one's cousin or friend, is void for incertainty. So if it be to the use of three or four of *Dale*, or to the use of *A. B.* or *C. D. Co.* 4. 29. of *Copyhold*, 96.

10. The surrender binds the Land immediately, so as the Lord cannot avoid or prevent the intention, nor prejudice him that is to have it by an Act that he can do. And yet it is rather a manifesting of the partic's intention, then a passing

The operation of a Surrender.

ling of an interest. For till admittance the surrenderer is Tenant to the land, and shall receive the profits to his own use; and he must perform the services. And yet he cannot pass the land to any other, or make it subject to any incumbrance of his: nor hath the Grantee any interest to punish trespass, surrender, &c. And yet he cannot be defeated of it: And he may compel the Lord to admit him. *Co. 4. 26. 29. of Copyhold, fol. 106.* If I make a surrender to the Lord, to the intent that he shall grant the land to *I. S.* and the Lord refuse to grant the land to *I. S.* accordingly: in this case I may re-enter upon the Lord; but *I. S.* hath no remedy, as in case where the surrender is made to the use of *I. S.* by *Calth. f. 61.*

Counter-
mand.

11. A surrender is not countermandable by the surrenderer. And yet if a Copyholder languishing in extremity, surrendreth his land out of Court to the use of his cousin in consideration of blood, or to the use of his son in consideration of natural love, and after recover before Presentment, haply this may be revoked. But if it be upon good consideration, as for payment of debts, and for any

any sum of money paid, though it be made out of Court, yet it is as binding as if it were made in the Court. *Co. of Copyhold*, 106.

The Presentment made out of Court ^{Present-} must be afterwards duly presented at ^{ment.} the Court, according to the custom of the Mannor. In which these things are to be known.

1. This Presentment is the Information of men sworn, to the Lord or Steward touching some things done out of Court.

2. This is either generall (*i.*) of all things, and by the whole Homage; or it is special (that is) by some Tenants, or of one, or of some things onely.

3. This by the general custom is to ^{Custom.} be made the next Court after the surrender, but by the custom of some Mannors may be the second or third Court after the surrender; and if it be not then presented according to the custome, it is void. *Co. 1. part* 61, 62.

4. This also must be made in all things according to the surrender; otherwise it is not good. And therefore, if the surrender be conditionall, and the presentment absolute, all is naught. And yet if the surrender be rightly

presented, and the entry of the condition be omitted by the Steward, this upon proof may be holden. *Co. 1. part 61, 62. of Copyhold, 107.*

5. No death will hurt the Presentment, and therefore if the Surrenderer die, yet the Presentment may be made after his death. And if he to whose use the surrender is made die before Presentment, the Presentment may be made thereof after his death, and thereupon his heir shall be admitted. So if *I. S.* surrender to the use of *A.* for life, the remainder to *B.* and *I. S.* die, and *A.* die before the presentment made, and after the Presentment is made ; in this case he in remainder shall be admitted. So if two surrender to the use of two joyntly, and one of them die before Presentment ; in this case the other shall be admitted to the whole. So likewise if the Tenants that take the surrender die, the Lord may notwithstanding, upon proof of it, take in the Tenant by admittance. *Co. 4. 39. of Copyhold, Sect. 40. fol. 107. Co. 4. 28, 29.* And yet if a surrender be made to the Lord in the presence of Tenants out of Court, and there the Lord doth grant it, but he dieth before this

this is presented, or the Tenant admitted; this it seemeth is not good. *Calthrop*, 46.

To the perfection of the Copyholder's estate, Admission, as that without which no estate passeth by the surrender, is necessary. As touching which these things are to be known. Admittance upon grant or Surrender.

1. This is the receiving of the Tenant into the Copyhold by the Lord or his Steward, according to the custom of the place. And it is thus entred: At this Court *I. S.* prayeth to be admitted, &c. whom the Lord by his Steward hath admitted, and whereupon he is admitted Tenant. *Co. of Copyhold*, 125. *Calthrop*, f. 62.

2. Some make it express, and implied, (*i.*) by acceptance of rent, &c. *Calth.* f. 62. It is also either upon a voluntary Grant, or Surrender, or upon a Descent. *Co. 1.* 140.

3. It is a judicial act of the Lord's, and in case of a voluntary admittance, he is but an Instrument, and may be compelled according to the custom to do it; for he is not esteemed as owner to any purpose, and therefore he cannot prejudice the surrender in any case. And therefore as to this Act the Lord's Title

to the Mannor, whether he have it by right or wrong, is not much considerable. *Co. of Copyhold*, 110.

4. This is necessary, for upon voluntary grants and surrenders, the Tenant hath nothing in the land till admittance, and upon dissents he is not perfect Tenant till his admittance. *Co. of Copyhold*, 112, 113. Yet in case of a surrender to the Lord's use no admittance is needful; and where there is an implicate admittance, there needs no express admittance: and where Tenant in possession is admitted, he in the remainder on the same Copy need not to be admitted: also the surviving Joyntenant, when they were both admitted at first, needs not to be admitted; and yet the heirs of a Copartner must be admitted into a moiety. *Calth. f. 63, 64*. And he that enters for a condition broken needs no admittance. *Calth. f. 61*. If a Copyholder for years die, the Executor needs not be admitted. So neither the husband of the wife Copyholder for years after her death. *Calth. f. 95*.

5. The Steward it is said may do it out of Court any where within the Mannor, except there be any custom against

it.

it. *Kytch.* 82. *Co. of Copyhold*, 123.

6. The admission must pursue the surrender: yet in some cases albeit it do differ from it, it is good enough. And therefore if the surrender be to the use of *I. S.* for life, or to the use of *I. S.* generally, and the Lord doth admit him in Fee; this is a good admittance for his life onely. And yet if the surrender be on condition, and the Lord omit the condition, it is all void. *Co. of Copyhold*, 112. So if the surrender be to the use of *I. D.* alone, and the new grant and admittance are to *I. D.* and *I. B.* this is good for *I. D.* and void for *I. B.* *Co. of Copyhold*, 111, 112. So if the surrender be reserving 10s. & the admittance be reserving 20s. it is good for the 10s. But if the surrender be reserving 20s. and the admittance is reserving 10s. it is all naught. The contrary seems to be deduced from the case of *Westwick*, 4. *Rep.* 28. *a, b.* So if the surrender be to the use of *I. S.* and the Lord admit *I. G.* and after admit *I. S.* it is said in this case *I. S.* and *I. G.* shall have the land together. But if the surrender be to the use of *I. S.* alone, and the Lord admit *I. G.* alone; this is all void. *Co. 4. 28. of Copyhold*, 111.

If

If the surrender be to the use of *A.* for life, the remainder to *B.* and *A.* is admitted; this is good for him in remainder. *Co.* 4. 23, 24.

Rent.

7. The admission must be according to the custom: yet if the custom will warrant the woman's estate during widowhood onely, and the Lord admit for life, or the Lord admit not reserving the ancient Rent in quantity or quality; this will not prejudice the heir, but that he may avoid it. *Co. of Copyhold*, 109.

8. Admittance cannot make a bad estate good, nor change the custom. *Kytch.* 82. 86. See more of this after at Fine, *Numb.* 9, 10.

Upon a
Descent,

The heir of a Copyholder in Fee hath such a possession, and is such a Tenant before admittance, that he may (paying the Lord his Fine, which may be afterwards) enter, take the profits, surrender or bring an action of Trespass; and if he die, the heir shall have the Land, and there shall be a poss. of the brother upon his entry. And yet it hath been doubted, if a Copyhold descend to a feme covert, and the husband take the profits, but suffer a Court-day to pass without admittance, whether he shall be Tenant by

by the Courtesie or not. *Dyer* 291, 292. *Calth.* 60. But in admittances upon a grant or surrender, as if one surrender to the Lord to the use of *I. S.* and the Lord grant it accordingly, it is otherwise; for there the Tenant hath nothing till admittance. But the heir of a Copyholder shall not be sworn of the Homage, nor bring a Plaint in the nature of an Assize, till admittance. So that an admittance in this case is rather for the benefit of the Lord to help him to his Fine, then to strengthen the Title of the heir. But the Heir is in most places bound under pain of forfeiture of his estate, or some other great penalty, to be admitted, and therefore he must be admitted. *Co.* 4. 23. *Dyer* 291. *Co. of Copyhold*, 113, 114, 117. *Calthrop*, fol. 62.

9. Upon every admittance there is Fealty. Fealty due to the party admitting, by the party admitted; a thing inseparable to the person, which cannot be done by Deputy: and yet if the Lord will accept it, or dispense with it altogether, it is well enough. *Co. of Copyhold*, fol. 95.

10. There is also a Fine due upon every admittance: See after. *Fine.*

There is in most places a Ceremony used

used in the passing of the lands. In some places there is the giving and taking of a turf and a twig; in some places the giving and taking of a glove; in some places the giving and taking of a straw; in some places the giving and taking of the hand: but in most places the Ceremony is, by giving and taking of a rod. And albeit the grant or surrender may be good without this Ceremony, yet it is not safe to omit it. This the Copyholder that doth surrender doth use to give to the Steward or Bailiff to deliver over to the party to whose use the surrender is made, in the name of seising. And herein custom of place is to be observed.

How
Grants
and Sur-
renders
shall be
taken.

1. If a surrender be made to the Lord in generall, without expressing to what use, it shall be taken to the Lord's use. *Kytch.* 81.

2. The same construction (for the most part) which the Law maketh upon words in a Deed, it will make upon a Copy. And therefore it is that a Copyhold estate made to one and his heirs males or heirs females is accounted a Fee-simple, though it be otherwise in the King's grant. *Co.* 4. 29. of Copyhold, f. 139. So of a grant to one and to his blood inheritable,

Fee-simple.

heritable, or to a Mayor or Commonalty or other Corporation, where no estate is named. So if I surrender to one and his heirs, and he reciting this doth surrender it to my use in the same manner as I surrendred to him; so if I surrender to *I. S.* as large an estate as he hath in the Mannor of *Dale*, and he hath a Fee-simple in that Mannor: in all these cases the Law will construe it to be a Fee-simple. *Co. 4.29. of Copyhold, 132.* If a Copyhold Fee-tail² be surrendred to a man and to his seed heritable of the body, or to a man and to the heirs of him procreated, or to a man in Frank-marriage with his wife; in the first of these cases an estate tail passeth without the word *heirs*, in the second without the word *body*, and in the third without either. *Co.* as before.

If a Copyhold be granted to a man in For life. Fee-simple, or to a man and to his bloud forever, or to him and his assigns forever, without the word *heirs*; that is onely an estate for life. So if such a grant had been to an Abbot and his heirs: So to *I. S.* and his heirs, so long as *I. D.* shall live. And yet if the grant be to *I. S.* and his heirs, so long as such a tree shall grow in such a ground; this shall

Joint-
nants.

shall be a Fee-simple. *Co.* as before. If this land be granted to two men, and to heirs, without *their*; by this no Inheritance is made; and they are Joyntenants for life onely. Yet if it be granted to *I. S.* and heirs, without *his*; hereby *I. S.* hath a Fee-simple, and not an estate tail. And if it be granted to a man and to his children of the body; this is no estate tail for lack of the word [*heirs.*] *Co.* as before.

If the Grant be to a man and the issues males of his body, by this is made an estate for life.

If this Land be granted to three, to have successively; by this they are Joyntenants, and shall take together, unless the custome (as in most places it doth) do otherwise construe it. *Co.* as before.

If there be Copyholder for life, the remainder to another in Fee, and the Copyholder for life doth surrender to the use of another in Fee, and the Lord admit accordingly; by this there passeth an estate for life onely. *Co. of Copyhold, f. 91.* So if the surrender be to the use of a stranger for life, and the Lord grant in Fee; this is good for life onely. *Calib. f. 61.* So if the Lord grant a Copyhold

pyhold for life, where an estate in Fee is warrantable; and this Grantee doth surrender in Fee to the use of a stranger, and the Lord admit him accordingly; by this, it is said, the Fee doth not pass. *Co. of Copyhold, f. 92.* If the surrender be to the use of a last Will, and the surrender deviseth it to two, and one of them only is admitted according to the Will; by this both of them shall have it. *Co. of Copyhold, 98.*

If one Copyhold be between two Joyntenants in Fee, and one of them surrender his part out of Court to the Lord according to the custom, to the use of his last Will, by which he doth devise it to the use of a stranger in Fee, and dieth, and this is presented at the next Court: hereby the Joynture is severed, and the Devisee must be admitted to a Moiety of the Lands. *Co. upon Litt. 59.* If a Copyholder surrender to the use of his wife for life, the remainder to the right heirs of the husband and wife; the wife dies, and the husband doth survive: in this case, if he have no issue by his wife, his heir shall have it, by the opinion of *Calthrop, f. 82.* And yet if the wife have issue by another husband, it is doubted.

Descent.

And

And it is said, that the husband and his heirs shall have the land: yet if the husband had first two sons, the heirs of the husband and the heirs of the wife shall have the land in common, after the decease of the wife. *Calth. fol. 83.* If land be given for life, the remainder to two men and their heirs; in this case they cannot have one heir: and therefore if the Tenant for life die before them in remainder, they shall be Joyntenants. But if neither of them be alive when the Tenant for life dies, then the heirs of them in remainder shall hold in common. *Calthrop, fol. 84.*

If a Copyhold be surrendered to the use of I. S. and his heirs, till he marry A. G. and then to the use of them two in special tail; this is good, and shall enure accordingly. *Calth. f. 22.*

If a Copyholder surrender to the use of a stranger, in consideration that the stranger shall marry his daughter before such a day; in this case, if the marriage succeed not, the stranger shall take nothing by the surrender. But if the consideration be, that the stranger shall pay such a sum of money at such a day; albeit the money be not paid, yet the
the

the surrender is good. *Calthrop, fol. 37.*

If the Copyholder in consideration of 20*l.* to be paid by *I. S.* doth make a surrender of his Land to *N. R.* this surrender shall be to the use of *I. S.* and not to the use of *N. R.* But if in the Copy the use be expressed to *N. R.* and no consideration mentioned, the use expressed shall stand against any consideration to be averred. *Calth. f. 37.*

If a Copyholder surrender his Land to the use of *I. S.* so that *I. S.* pay 20*l.* such a day if he please; this is an absolute, not a conditional surrender. *Calthrop, f. 39.*

The payment of the Fine by the Tenant is necessary to the continuance, but not to the creation of the estate, for the estate is made perfect without the Fine: payment: but for the more full understanding hereof, these things are to be known. 9. In respect of the payment of the Fine: and of a Fine.

1. A Fine is a sum of money to be paid to the Lord for an income into the Lands.

2. This in some places is certain, and in other places is uncertain: and where it is certain, the Lord cannot increase it.

3. By general custom this is to be Custom.
L paid

Admittances.

paid onely upon admittances; but it may be also by special custom upon licences granted to demise by Indenture.

4th. The Fine is to be paid upon admittances in these Cases following. (*viz.*) Where the Lord hath a Copyhold come into his hands, and he makes a voluntary admittance; and where a Copyholder doth surrender to the use of a stranger, and the Lord doth admit him to whose use the surrender is made; and where a Copyhold of Inheritance descendeth, and the heir is to be admitted; so where the wife is to come in as Tenant in Dower, or the husband as Tenant by the curtesie; and so also where one doth enter as a general or special occupant; and so also where the Copyhold Lands of a Bankrupt are to be sold upon the *Stat.* of 13 *Elix.* 1. In all these cases the Tenant is to be admitted, and to pay a Fine. So also if a Copyhold be surrendred to the use of one for life, the remainder to the use of another, and the Tenant for life die; he in remainder must pay Fine upon his admittance. So where the *Habend.* of the grant is successive, and one of them die, the next must be admitted and pay Fine. So if

two

two Copartners or Tenants in common be, and one die, and the whole descend to the other; there must be Fine upon the admittance. But if there be two Jointenants, and one of them die, and the other come to the whole by Survivourship; or one take a wife, a Copyholder in Fee, or marry with the tearmer of a Copyholder; or a Copyholder be disseised, and then enter upon the disseisor, or recover by plaint in the nature of an Assise; or a Copyholder in Fee surrender for life, reserving the reversion, and the Lessee for life dieth; or a Copyhold be granted on condition, and the condition is broken, and the Grantor reentereth; or the Lord enter upon a Villein, that hath purchased a Copyhold; or the Bailiff is by custome to have the Wardship of an Infant: in all these cases there needs no admittance, and therefore no Fine is to be paid. And yet if a Copyholder be disseised, and a stranger abateth, and the Heir recovereth by plaint in the nature of an Assise of Mortdancestor: upon this recovery an admittance is to be made; and therefore a Fine is to be made. *Co. of Copyhold, Sect. 56. in toto.*

5. If the Lord use to take for his Fine sometimes 2*d.* sometimes 4*d.* sometimes 6*d.* an Acre; this is so incertain, that it shall be said to be arbitrary. *Calthb. f. 25.*

10. In respect of entry in the Rolls of the Court.

The Steward of the Court must take care to record and inroll all the conveyance of estates. For some have held, that if the Lord in open Court grant a Copyhold estate, and no entry is made hereof in the Court Rolls, that the grant is not good, and that no collateral proof will make it good. *Calthrop, f. 47.* But if the Tenant have no Copy, or lose his Copy, the Roll of the Court is a good evidence. And if these Rolls be lost, it is thought clearly it may be supplied by proof. *Calthrop, f. 47.* And yet if By-laws be made and entred upon the Rolls, and the Rolls be lost, the By-laws are gone: otherwise it is of Customs and Priviledges inrolled and lost. *Idem.*

By-laws.

Customs.

11. In respect of custom: and of Customs.

That the grant made by Copy of Court Roll may be good, it must be made according to the Custom of the Mannor, and that custome must be according to Law: but as touching customs these things are to be known.

Custom what.

1. A Custom is a Law or right not written, which being established by long use,

use, and the consent of our Ancestors, hath been and is daily practised.

2. Though Custom, Prescription, Usage and Limitation be much of affinity, and one of them be taken for another, yet they differ much. For,

1. Custom can have no beginning Prescription since man's memory, but Prescription may.

2. Custom toucheth many men in common, that they by continuance of time have gotten a right; and this is alledged thus, That in such a place is such a Custome: but Prescription toucheth this or that man, when he by continuance of time hath obtained a right against another man; and this is personal, and alledged in the name of some person in certain thus, That he and his Ancestors, and those whose estates he hath, time out of mind, &c.

3. Usage is the efficient cause or life Usage of both, for both lose their being if Usage fail. *Calthrop, f. 17. Co. of Copyhold, Sect. 33.*

4. Limitation is, where a right may Limitation be obtained by reason of a non-claim on by the space of a certain number of years, differing in Account of time

from Custome and Prescription.

1. The measure whereof is so long as man's memory cannot remember the contrary, (that is) that no man alive hath heard or knoweth any thing to the contrary. But limitation hath a certain time of beginning and end.

2. Customes are either generall, as which are part of the common Law used in all places alike ; or particular, which are used only in some places, as in *Kent*, *North-Wales*, *Gavelkind*, *Burrough English*. And these again are either disallowing what generall customs do allow: as that the Copyholder shall not sell his land to a stranger, and compel the Lord to admit him, till he hath first offered it to the next of blood, or next of kin, or next neighbour from the sun-rising, who giving as much as the party to whom the surrender is made shall have it. Or else they be such as do allow what general customs do disallow: as for a Copyholder to let his land by Deed for a longer time then a year without licence, which by the custom of some Manors he may do. Custom from certain cause reasonable used takes away the Common law. *Co. of Copyhold*, Sect. 33.

Consuetudo ex certa causa rationabili usitata privat communem legem.

To

To know what customs are good and what not, these rules must first be taken. First, Customs and Prescriptions must be reasonable. 2 *Ed.* 4. 24. Secondly, they must be according to common right. 42 *Ed.* 3. 4. Thirdly, must be upon good consideration. 5 *Hen.* 7. 9. Fourthly, they must be compulsory, not voluntary. 42 *Ed.* 3. *Avowry* 66. Fifthly, they must be certain. 13 *Ed.* 3. 4. Sixthly, they must be beneficial to them that claim them. 31 *Ed.* 3. *Prescription* 40. 28. Seventhly, it cannot help a man to that which is gained onely by matter of Record. Eighthly, it cannot extend to things newly created. Ninthly, they need not be used daily and hourly, but according to time and occasion. *Calthrop*, 22. 21. Tenthly, *Non-usuer*, as if the Lord hath been used to have work-days, and hath not had them for twenty years together, this will not hurt the custom. *Calthrop*, f. 25. Eleventhly, custom may oppose the Common Law, but not a Statute Law. *Calth.* 87.

Hence it is that these following customs are not allowed to be good. (*viz.*) That no Tenant shall use his Common by putting in of his Cattel in fields

For Com-
mon.

To have a
Fine for a
trespass,
or other
cause.

sown after severance of his Corn, till the Lord put in his Cattel; for he may chuse if he will to put in at all.

That if any man's beast be taken damage feasant upon the Lord's Demesnes, he may keep them till the owner give him such amends as he shall please: for this is to make him judg in his own case. And yet if the custom be, that if the Copyholder trespass him, and it be presented at Court, that this shall be a forfeiture, it is good. *Calthrop, f. 29.*

That every Copyholder shall pay the Lord a certain sum of money for every Court he keeps. Or that he shall never keep a Court till when it please him. For this Court being to do Justice must be *gratui*. And yet such a custom alledged to be for the keeping of an extraordinary Court is good.

That every stranger that shall make a Pound-breach shall pay 1 *l*. And yet it is held that a custom lay, that every Tenant which shall make a Pound-breach shall forfeit 5 *l*. *Calthrop, f. 31.*

That every one that rides through the King's high way within the Mannor must pay the Lord such a sum of money. And yet if it be for every one that

that passeth over such a Bridge within the Mannor which the Lord doth maintain; it is good enough.

That every Copyholder that doth marry or shall marry his daughter, shall pay so much to the Lord for a Fine. And yet where the custom doth admit the husband Tenant by the Curtesie, and wife to be Tenant in Dower, or to have widows estate of the Copyhold, that in these cases they shall pay a Fine, is a good custom.

That every Copyholder shall hold his land without paying any rent or service to the Lord. And yet it is held, that a good custom to prescribe by fealty for all manner of services is held good. *Calthrop*, 29. So a custom may be to exempt one Tenant from that which all the rest of the Tenants do bear, and good. *Calthrop*, f. 77.

That every Copyholder shall give to the Lord so much in the time of war ^{Incertain} every month to bear his charges. And yet if it be that he shall pay so much to the Lord for this purpose, it is good. The reason of the difference is, because a payment is compulsory, a gift voluntary.

That

That when one Copyholder dieth, another of the Copyholders (and say not which) shall hold the land for the year following. And yet if it be, that if a Copyholder die without heir, the eldest Tenant of that name within the Mannor shall have the Land ; this is good. *Calth. f. 31.*

For Fine.

That the Lord shall have for his Fine 2*d.* rent an Acre, and when he please 4*d.* an Acre. And yet haply if the Lord prescribe to have 2*d.* an Acre rent in time of peace, and 4*d.* in time of war, this may be certain enough good.

To doe waste.

That a Copyholder shall cut down what timber he pleaseth, fire, pull down or destroy the houses, or let them fall. And yet haply a custom that the Tenant shall cut down more then ordinary, or that the Tenant shall have necessary fireboot, &c. that he may sell underwoods and shrowds, may be good.

To pay a Fine.

That every Tenant shall pay a Fine at every alienation of the Lord. And yet if it be, that every Tenant shall pay a reasonable Fine at the Lord's death ; or that a Fine shall be paid at every death or alienation of the Tenant ; or that the Lord shall admit without Fine, if the usage

usage have been so, *Calthrop, fol. 40.* these and the like customs are allowed to be good: but these following customs are disallowed. (*viz.*)

That the wife of a Copyholder shall during her life or widows estate hold all the Land.

That the Tenant shall have Common in the Lord's waifs. To have Common.

That if he that hath right claim not the Land within a year and a day after the Ancestor's death, he shall lose it: and yet this will not bind an Infant.

That the Lord may grant for one, two or three lives in reversion.

That a surrender may be made to the Bailiff or Reeve, or two or more Tenants out of Court. To make a Surrender.

That the Surrender made by the Tenant in tail shall bar the issue in tail.

That the Lord may keep his Court at another of his Mannors.

That the Lord's Steward or Bailiff may grant Copyhold estates to the Tenants.

That a feme Covert may grant her Copyhold estate to her husband by surrender.

That an Infant of years of discretion may surrender.

That

That the new Tenant shall pay a Fine to the Lord, as he can agree, upon his admittance.

That Proclamations be made three Courts one after another, and if the heir come not, and pay his Fine for admittance, he shall lose the Land. *M. 7 Jac. B. R. Lyfords case.*

That the Copyholder may let for longer time then one year without Licence.

To surrender out of Court.

That an Inheritance shall pass by surrender in the Lord's Court without his leave, and be delivered over by the Bailiff to the Feoffee according to the Deed to be inrolled in Court.

If the Lord prescribe, that whosoever take a distress within his Mannor, he must put it in his Pound for a time; this is not good, for it is no benefit to him. But if he add farther, that the Lord is to have so much for the impounding, it is good.

Prescription.

The Lord may not prescribe to have Felons goods, Fugitives goods, Deodands, because they cannot be forfeit till they appear of Record: but Waifs, Estrays, Wrecks, and such like things, may be gained to the Lord by prescription, for

for they may be gained by usage without matter of Record.

That the wife of the Copyholder shall be Tenant in Dower, husband Tenant by the courtesie, (an Inquiry may as well be made of this, as of entailing Copyholds; since this Tenant by *Elegit, &c.* commenced by Statute which is within the memory of man) or a stranger Tenant by Statute Merchant (and so no custom can be of it, *Co. of Copyhold, Sect. 47.*) or staple of the Land in the hand of the Copyholder, are good customs. *Co. of Copyhold, 136.*

That the Tenant may make a Lease for twenty years after his death, is a good custom. *Co. of Copyhold, f. 93.*

That the Tenants shall pay the Lord every fourth year the double rent, and every sixth year a half year's rent, is a good custom: so that when they sow their land, they shall pay their rent in corn, and when they feed it, in money, is a good custom. *Calthrop, f. 25.*

All customs, especially such as are in derogation of the common Law, are taken strictly, but not literally. And therefore where a custom is that a man may grant in Fee; by this he may grant

To make Leases.

To pay Rent.

How they shall be taken.

To make estates.

in

*Cui licet
quod ma-
jus, non de-
bet quod
minus est
non licere;
sed non e
converso.*

in tail or for life. So where the custome is, that the Lord may grant for life; by this he may grant during widowhood. He who may doe what is more, may doe what is less: not convertible. But where the custome is, that the wife of the first taker shall have her widows estate, by this the wife of the second shall not have it. *Coke 4. 30. of Copyhold, 70.77.*

If the custom be, that the Copyhold land may be leased by the Lord Surveyor, or deputy Surveyor; the Lord cannot by his Testament appoint and authorize one to keep Courts and make estates. *Co. 4. 30. of Copyhold, 35.*

To pay
money.

stovers.

If there be a custom that for every house in the Mannor two shillings Fine shall be paid: if the Tenant maketh one house into two houses, or maketh a new house, no Fine shall be paid for these new houses. So if I have estovers appendant to my house, and I build a new house, I shall not have estovers to this new house. But if I only change the rooms, my estovers do continue. So it is of a water-course to a Fulling-mill, converted to a Corn-mill, or of a light in a Hall, converted to a Parlour. *Co. 4. 32. on Litt. Sec. 74.*

The

The proof of these Customs, and Proof of it.
due Precedent, as to prove Leases, may
be made for longer time then a year :
to shew one Lease, is no proof of a cu-
stom.

In custom there is *User*, i. e. when
according to time and occasion it is u-
sed. Secondly, *Non-user*, i. when for
want of time and occasion, through neg-
ligence or forgetfulness, it is not used :
this will not hurt the custom. And
therefore if there be a custom that the
Tenants shall do work for the Lord
yearly, and it hath not been done for
divers years, yet the custom remain-
neth, if any man living can remember
it hath been done. And so it is if one
have a Market one day a week, and do
not keep it. Thirdly, if the Tenants use
to pay the Lord, when they sow their
Land, rent-corn, and when they feed it,
money, or to pay the Lord every fourth
year a double rent, and every sixth
year a half rent : this is a good *Inter-*
user. Fourthly, *Abuser* is, where the
Tenant doth put in other cattel or more
cattel in the Lord's soil then he ought:
this doth not destroy the custom, but
this is finable at the Lord's Court. And
so

For pay-
ment of
rent.

so it is if the Lord have a Fair or Market one day of the week, and he keep it another day; this is not a forfeiture of the custom. And yet if he have it two days, and keep it three days, this is held to be a forfeiture. *Calth. f. 43, 44, 45.* See more to this in the next question.

CHAP. XX.

When and how a Copyhold shall be said to be destroyed or suspended.

FOR the clearing of this point, these things are to be known. 1. The Copyhold is destroyed and gone in all these following cases. 1. When the Copyhold is either by Act of Law, or Act of the Lord, or the Copyholder, or Tenant, become not demisable by Copy. As for example, if the Lord by Fine or Feoffment, or otherwise by Deed, grant the reversion of one or some of the Copyhold Tenements, of the Mannor in Fee, or for Lease to me, by this it is gone. And in this case also it is so gone, that no acceptance of Rent or admittance of the Tenant after will revive it. But if the Lord grant the reversion of all his Copyhold

hold Tenements; by this the Mannor is not destroyed. *Co. 4. 27. of Copyhold, 176.* Or if when the Copyhold is come into the Lord's hands, he do by Fine, Feoffment, or Recovery, pass away the Fee, or make a Lease for life or years of the land, or suffer it to be extended on a Statute or *Elegit* of his own acknowledgment; or if after it come into the Lord's hands he die, and it be after assigned to his wife in dower; by this in these cases the custom is destroyed for this Land. *Co. 2. 17. Calth. 91.*

Or if the Lord, or his Lessee of the Mannor, doth make a Lease of the Copyhold to the Copyholder, or make a Feoffment absolute or conditional to the Copyholder of the Copyhold, the which he doth accept; or the Lord make a Lease of the Mannor to the Tenant for life, the Remainder to a stranger; by either of these also it is gone. *Dyer 114. Kytch. 82.* Or (as some say) if the Copyhold come into the Lord's hand by escheat, or the Lord purchase the Copyhold: but this opinion is disallowed. *Calthrop, 90. 88. 91.* But if the Lord grant part of the Copyholds onely, by this it is clear the Mannor is gone, and

custom destroyed. *Adjudge 29 Eliz. Calth. 99.* And where the Copyhold is extinguished, the land can never be afterward granted by Copy.

If there be a Lease for years of the Mannor, and one of the Copyholders doth purchase the Reversion in Fee; by this the Copyhold is destroyed, and the Lessee of the Mannor shall out the Copyholder, and have the land for a time. *Calth. f. 97.*

And yet if the Copyholder accept a Lease for years of the Mannor, or marry with the wife of the Lord; by this the Copyhold is not extinct, but it is suspended. And if a Copyhold be in hand, and the Lord alien by Fine or Feoffment, or make a Lease of the Mannor for years; by this it is extinct.

And if a Copyhold be granted to three for their lives, and the first of them take an estate by Deed, with livery of seisin from the Lord; by this the Copyhold for that life is at least suspended. *Dyer 30. Co. 4. 31.* But the Copyhold is neither extinct nor suspended in these following cases: (*viz.*) where the Copyhold is surrendered, forfeit, or doth escheat into the Lord's hands, and the Lord

Lord doth keep it in his own hands, or let it at will onely ; or the Tenant, having licence from the Lord, make a lease to a stranger according to his licence , or without licence make a lease to the Lord. *Co. 4. 30.* So where the impediment is tortious, as if the Lord be disseised, and the disseisor die seised ; or the land be recovered by false Verdict, or erroneous Judgment, and afterwards is recontinued. What is done against Law is reputed not done. The impediment which takes not its effect from the Law is invalid. *Co. 4. 31. of Copyhold, 178.*

Quod contra legem fit pro infecto habetur.

Non valet impedimentum quod de jure non sortitur effectum.

But in all the cases before, where the Copyhold is gone by grant of the reversion, it is not so gone, but that the Tenant shall hold his estate still, and subject to forfeiture as before ; and he must still perform the same services (Suit of Court excepted) as before ; and the customs incident to the land, and if it be Burrow English, or Gavelkind, continue still. But Fine upon Alienation and Admittance is gone, and the Tenant cannot now surrender, or pass his estate by any way but by a Decree in Chancery : And this will bind the person onely. *Co. 4. 25. of Copyhold, 176.*

CHAP. XXI.

What Acts amount to the Forfeiture of a Copyhold Estate, and how.

OF Acts which amount to a forfeiture, some are forfeitures in the act, and in the instant that they are done; such are offences apparent and notorious, of which the Lord by common presumption cannot but have notice: Some are no forfeitures, till a Presentment be made thereof. Other Acts there are which are offences, but are not such as cause a forfeiture, yet are they Finable to the Lord.

Of the first sort are these following Acts.

1. By not coming in to take his Land.

Admission.

If by special custom upon the descent of any Copyhold of Inheritance the Heir be bound upon three solemn Proclamations, at three several Courts, to come in and be admitted into his Copyhold, and he cometh not, this is a forfeiture if he do not come; this is in the Act a forfeiture. *Calthrop, f. 69. Co. of Copyhold, 164.* And yet if a Copyholder enter before admittance, this is no forfeiture,

feiture, without a special custom for it.

So if a Copyholder be sufficiently warned to appear at the Court Baron of the Mannor, and he wilfully make default, having no excuse for his absence.

2. By denying of Suit of Court.

And this offence is greater, if he do wilfully refuse to come; or being come, to be sworn of the Homage; or being sworn to present, if he depart without Presentment: as if thirteen be sworn, and twelve present, and one refuse. But if a Copyholder be hindred by sickness, waters, debts, or the like, his default is no forfeiture: but otherwise it is in the Act a forfeiture. And yet some say this must first be presented ere the Lord can take advantage of the forfeiture. *Dyer 211. 31. Calth. f. 67. Dyer 233. 9 H. 6. 44.* So if he swear in Court he is none of the Lord's Copyholders, or being required to be sworn of the Homage, refuse it for that cause; this it seems is a forfeiture, and that without Presentment.

So if the Steward shew a Roll whereby the Tenant is proved a Copyholder, and the Tenant say he is a Freeholder, and shew a Deed to that purpose, and tear in pieces the Court Roll; this is such a forfeiture. And yet if there be a

doubt in it, and the Copyholder do his service with a Protestation, that it may be recorded as it shall fall out; this is no forfeiture, nor Finable. So if he speak unreverent words of the Lord in the Court, as if he say, that he doth exact and extort unreasonable Fines, and undue Services; this is onely Finable. So if he say that he will devise a means to be no longer his Tenant; this is neither a Forfeiture, nor Finable.

3. By non-payment of the Fine.

Where the Fine upon Admittance is certain, if after Admittance it be upon demand denied, or not paid; or where the Fine is uncertain, and the Lord hath set it reasonable, and the Tenant doth not pay it in a reasonable time after demand; in these cases it seems there is a forfeiture. But it is no forfeiture in him to deny the payment, if it be set unreasonable. And of this point the Judges, and not the Jury, shall be Judge. And yet of this also some hold there must be a Presentment, before there can be a Forfeiture. *Co. 4. 27, 28. Calthrop, f. 67. Trin. 4 Jac. B. R.*

4. By bringing a Replevin.

If the Copyholder sue a Replevin against the Lord distraining for his Rent or Service; this is such a forfeiture. *Co.*

of

of Copyhold, 165. So if the Lord bring Trespass against the Tenant, and he plead it his Free-hold. And yet if the Copyholder, doubting of the truth of it, whether it be due or not, intreateth of the Lord that the Jury may inquire thereof; this is no forfeiture.

5. By pleading.

If a Copyholder for life suffer a recovery by plaint in the Lord's Court, as Copyholder of Inheritance; this is said to be such a forfeiture. And yet if such a Copyholder surrender in Fee, this is no forfeiture. So if Copyholders in Fee make Partition, this is no forfeiture. *Calthrop, 98.*

6. By suffering a Recovery.

If the Lord demand his Rent of the Copyholder, and he deny to pay it, or he delay to pay it without the Lord's agreement; or if the Lord come upon the Land, and there continue demanding of the Rent, and it is not paid; this is such a forfeiture: For the Copyholder knowing the time of payment, is to provide it against that time. And this also by special custom may be a forfeiture before the admittance of the Tenant. *Co. of Copyhold, 167. M. 7 Jac. B. R.*

7. By not paying Rent.

Waste in a Copyholder is either voluntary or permissive. If a Copyholder

8. By doing waste.

commit voluntary waste, as if he pluck down any ancient built house, or build a new house, and then pull it down again; or plow up meadow-ground, so that the ground is thereby made worse; or cut more timber then there is need of; or being cut doth misemploy it, or doth not employ it in due time; or lop the trees and sell the loppings; or cut down any fruit-trees for fewell, having other wood sufficient; or behead trees, or break the boughs, so as the bodies do thereby putrefie: all these things are forfeitures. And yet the cutting and carrying away of shrowds or under-wood is no forfeiture, without a special custom to make it so.

So if the Tenant have a grant of the trees, or a Licence to cut down trees; in this case it is no forfeiture: but otherwise in these and such like cases, without a special custom (which ruleth much herein) to enable the Act, it is a forfeiture. 9 H. 4. 12. *Calib. f 68. A. 36. 37 Eliz. Co. B. Co. 4. 27. of Copyhold, 168. Calib. 28. Ca. 1. 63.* And these things will be a forfeiture when they be done by the Lessee at will of a Copyholder, and the Copyholder shall have his remedy

medy over against the Tenant at will by action of the case. So also it is for permissive waste: as if the Copyholder suffer his house to decay or fall for want of repair, or suffer his Meadows or Lands by his ill husbandry to be spoiled. And yet some are of another opinion in some of these cases, for they hold, that many of these are no forfeitures till there be a Presentment of them. And herein they distinguish between voluntary and involuntary Acts; and Acts that lie in non-feasance, which they say must be presented, and Acts that lie in mis-feasance, which need no Presentment. *Calth. f. 68.*

Of the next sort, whereof the Lord must have a Presentment before he can take advantage of the forfeiture, are these things following: (*viz.*) where the Copyholder doth commit Treason or Felony, and be thereof attaint; or be convict for Recusancy, or be Outlawed, or be Excommunicate, or goeth about in any other Court to entitle the Lord to the Copyhold. Or if he alien his Copyhold Land by Fine, Deed, or make a Lease of it without Licence of the Lord.

9. By committing of Treason, Felony, &c.

10. By making a Lease, &c. Licence.

And yet this Lease as to all others but the

the Lord himself is good. But in case where the custom will warrant a Lease for a year, there is no forfeiture, whether it be by word or writing: for without a custom of enablement, it is held, that a Copyholder by the Common Law cannot make a Lease for a year. 35 *Elix. ch. 2. Trin. 3 Jac. Curia, Co. 4. 27. Litt. Sect. 74.* If the Copyholder have a Licence to let for ten years, and he let for twenty years; this is a forfeiture. Yet if the Copyholder for life surrender to the Lord to the use of another in Fee, or make a Feoffment in Fee, or Lease for life, but doth not make Livery of Seisin upon it, or not make a good Livery upon it, or doth bargain and sell the land without Inrollment of the Deed; none of these is a forfeiture. *Trin. 36 Elix. 2. Co. B. Co. 4. 23. 1. part f. 495. of Copyhold, 169.*

So if the Copyholder have Copyhold lands and other lands in *Dale*, and he bargain and sell all his lands in *Dale*, and the Deed is inrolled; by this the Free-land onely passeth; *ergo* this is no forfeiture. But if he have no Free-land, there it is a forfeiture. And all these offences

offences are the greater when they are willingly done.

Of the third sort of offences are these following : (*viz.*) where the Copyholder being of the Grand Jury, doth indict the Lord, or give evidence against him ; or being a Bailiff, if he arrest him or sue him at Law, (except it be in the case of a Replevin before.) Neither of these Acts is a forfeiture, nor is it Finable. So neither if the Copyholder disseise the Lord of any other Land. *Caltbrep*, f. 68, 91.

So if the Copyholder abuse the Lord in words, or abuse the Lord's Common with his cattel, or rail upon another Copyholder in the Court, or use any such like words or deeds of contempt, that do not tend to the Lord's disinheri- tance ; these things are at the most but Finable. *Caltbrop*, f. 45.

CHAP. XXII.

Who may Forfeit : and how.

IN answer to this question, these things are to be known.

*Non com-
pos mentis.*

1. A Copyholder of an unsound memory, an Ideot, or a Lunatick, cannot forfeit his estate.

Infant.

2. An Infant under fourteen years of age cannot forfeit, for he is till then to be in Ward to the next of kin, or Bailiff, according to the custom of the place. Nor can he forfeit by any negligent or ignorant offence, as non-claim, not coming to be admitted, not repairing, nor malefeasans. Thus if he bring a Replevin against the Lord, alien by Deed, or the like Acts. But by a voluntary wast, or obstinate deniall of Rent, an Infant may commit a forfeiture. And so he may by doing a Felony. *Co. of Copyholds, 172.*

*Feme co-
vert.*

3. A feme covert cannot, by any Act she can do alone, forfeit her estate; but her husband, or she with the consent of her husband, may. Yet if a stranger with the wife's consent, without the consent of her

her husband commit a waft; this is not a forfeiture. *Co. 4. 27. of Copyhold, 172, 173.*

4. The Guardian of a Copyholder Guardian, may forfeit his Wardship, but he cannot forfeit the Copyhold. *Co. of Copyhold, 172, 173.*

5. *Cesty que use* of a Copyhold can- *Cesty que use.*
not forfeit it.

6. A Disseisor of a Copyhold cannot Disseisor, forfeit it.

7. He that doth forfeit, can forfeit but his own part : and therefore if there be two Joyntenants, and one of them commit a forfeiture ; Lease for life, the remainder for life, or in Fee ; and the first Tenant for life commit a forfeiture, or purchase the Mannor, and extinguish the Copyhold ; yet the remainder is not hurt.

If the husband and wife be joynt Copyholders of the purchase of the husband during coverture, and he is attainted of Felony, and dieth ; his wife shall have all the land. But if the purchase were before the marriage, then a moiety is gone. *Calthrop, f. 92. 97.* So where the estate is made to three successively, and one of them doth commit a forfeiture ;

ture ; this cannot hurt the estate of the other two. So where a Copyholder in Fee by licence doth make a lease for years by Deed, or without licence by copy , and either of these Lessees commit wast ; by this the Reversion is not forfeit. *Co. of Copyhold*, 172.

8. If a Copyhold be surrendered to the use of I. S. he cannot forfeit this before admittance.

9. If one have several Copies , the forfeiture of one of them is not the forfeit of the other. *Co. of Copyhold*, 174.

CHAP. XXIII.

Who shall take advantage of a Forfeiture.

Regularly none may take advantage of a Forfeiture, but he that is Lord of the Mannor at the time of the Forfeiture. And therefore if the Copyholder make a Feoffment, and then the Lord doth alien the Mannor ; in this case neither the grantor nor the grantee can take advantage of the Forfeiture. And yet if there be Tenant for life of the Mannor, the remainder in Fee, and a Copyholder
commit

commit a forfeiture, and the Tenant for life of the Mannor die before his entry; in this case he in remainder may enter. And he that was never Lord of the Mannor, shall take advantage of the forfeiture. As where the Lord makes a Feoffment of a Copyhold in Fee; in this case the Feoffee shall enter for the forfeiture. *Co. 4. 24. of Copyhold, 176.*

CHAP. XXIV.

What Act will be a confirmation of an Estate forfeit.

IN case where a Copyhold is forfeit, and the Lord have notice of it, if he shall do any thing afterward whereby he shall acknowledge the Copyholder to be his Tenant, as distrain upon the land for rent, admit him to be Tenant, or the like; by this the Lord is concluded to take advantage of the forfeiture. And yet if the Act done by the Copyholder be such an Act as doth destroy the Copyhold, as if he makes a Feoffment of the Copyhold, or the like; in this case, no subsequent Act of the Lord will help. *Co. of Copyhold, 176.*

CHAP.

CHAP. XXV.

In what Statutes Copyholders and Copyholders are included.

They are expressed in these following Statutes. R. 3. 4. A Copyholder that hath 26 s. 6 d. the year, may be a Juror, as well as he that hath 20 s. the year of Freehold land. 1 Ed. 6. 14. about Abby-land. 2 Ed. 6. 8. about Offices found. 1 M. 12. now expired, touching the assistance of Justices of Peace to suppress a Riot. 5 Eliz. 14. about Forgery to defraud a Copyholder. 13 Eliz. 7. about the Copyhold of a Bankrupt. 14 Eliz. 6. about his Copyhold that doth depart the Kingdom without leave. 35 Eliz. 2. about a Recusant. When a Statute doth alter the Service, Tenure, Interest of the Land, or other thing in prejudice of the Lord, Custom, or Mannor, or of the Tenant there, the general words of Tenant, or the like, extend not to Copyholders: But when the Act is for the good of the Common-wealth, and no prejudice may accrue by reason of any alteration of the

the interest, service or custom of the Mannor, there usually Copyholders and Copyholds are included. *Co.* 3. 8. For this cause it is judged that they are not intended in these following Statutes. (*viz.*) *Westm.* 2. 1. Of entails. And yet by custom such lands may be entailed. Custom.
Westm. 2. 26. Of an *Elegit.* 16 *R.* 2. 5. Of forfeiture of lands by receiving Bulls, &c. 2 *H.* 5. 7. Of the forfeiture of Hereticks. 27 *H.* 8. 10. Of Uses. 31 *H.* 8. 1. 32 *H.* 8. 32. About Partition. 32 *H.* 8. 28. Of Leases made by Tenant in tail, or husband and wife. 17 *Ed.* 2. 18. Of Idco's lands. *Merton* 1. Of Damages. *Co.* 4. 30. *Westm.* 2. 3. 31 *H.* 8. 13. And that of 32 *H.* 8. 9. Of Champerty. *Co.* 4. 26. 4 *H.* 7. 24. Of Fines. *Co.* 9. 105.

CHAP. XXVI.

How a Copyholder may sue and be sued.

FOR the better understanding hereof, these things are to be known. 1. For any thing which doth concern his Copyhold, he cannot sue or be sued in any real Action, or Action favouring of the
 N reali-

reality elsewhere, but in the Lord's Court: So that if a stranger out him, he must sue by plaint in the Lord's Court as his case is. And there the Entries are thus, *A. of B. plaineth against C. of D. of a plea of land, viz. of one messuage, 40 acres of land, 4 acres of Meadow, &c. with the appurtenances. And maketh protestation in nature of the writ of our Lord the King of Assise of Mortdantessor at the common Law, or of the writ of our Lord the King of Assise of novel disseisin at the common Law, &c.*

Pledges of Prosecuting, &c.
Little. Sect. 76.

But he may bring an Action personal in any other Court. And the Lessee of a Copyholder may bring an *Ejectione firme* in any other Court. *Co. of Copyh. 147.*

*Ejectione
firme.*

2. If the Lord out him he may have an *Ejectione firme*, or Trespass against the Lord in any Court: but he cannot have an Assise against the Lord. *Co. of Copyh. 146.*

3. A Copyholder of base Tenure in ancient Demesne cannot have a Writ of *Droit close* or *Monstraverunt*; but Tenants of Franktenure in ancient Demesne

mesne may. *Co. of Copyhold*, 146.

4. If the Copyholder by licence of the Lord make a Lease of the land, and the Lessee cut down timber, there being a custom that the Copyholder may cut down timber: the Copyholder in this case must punish this in the Lord's Court.

5. If a wife dowable by custom recover her dower by plaint in the Lord's Court, and in the Action she recover damages also; she may not sue for these damages at common Law. *Co. of Copyhold*, 146.

6. If a Copyholder make a Lease by Copy for years, or by Deed with Licence rendring Rent, an Action of debt for this rent may be brought in any other Court. *Co. of Copyhold*, 146.

7. If a stranger cut down the Trees growing on the Copyhold, an action of Trespasse lieth against him for this at common Law. So if the Trees by custom do belong to the Tenant, and the Lord doth cut them down. *Co. of Copyhold*, 147.

8. If the Copyholder surrender to the use of the Creditor in trust to pay his debts, and then to have the land
N a again,

again, and he keep it; in this case this being proved by examination of witnesses upon an English Bill, the Lord may re-seise and restore the land. *Calthrop, f. 74.*

9. If the Lord have a great wast, and he grant a Rent out of it; the Grantee may distrain the Tenants, unless they can prescribe to have Common there. *Calth. f. 97.*

10. If the Steward, Bailiff, or Tenants, into whose hands the surrender is made, refuse to present or admit the Tenant; in this case he is to sue by Bill or Petition to the Lord in his Court. And if the Lord will not there do him right, the Tenant may sue him and them in Chancery, and there he shall have relief. *Co. of Copyhold, 180.*

11. For the order of Proces in Suits in the Lord's Court, inquire the Custom of the place, and see *Calthrop, fol. 75. 98.*

CHAP.

CHAP. XXVII.

Of a Licence to Alien.

FOR this, these things are to be known.

1. That the Lord may licence his Tenant to let by Deed for years, if there be a custom for it. And the entry of this in the Court Rolls is thus. At this Court *I. S.* prayeth Licence of the Lord to demise, &c. To whom the Lord gives licence, &c. And if it be by the Steward, Whom the Lord by the Steward hath licensed. *Co. of Copyhold*, 123, 125.

2. This Licence (it seemeth) is not grantable by the Steward without a speciall custom to enable him to doe it, or a speciall warrant from the Lord to give him power so to doe. *Co. of Copyhold*, f. 124. Custom.

3. If a Tenant for life of a Mannor grant a licence to a Copyholder to alien, and the Lord die, in this case the licence is good. *Co. of Copyhold*, 85.

CHAP. XXVIII.

Of a Tenure.

A Tenure is the manner whereby Lands are holden of their Lords. This seemeth to differ little from Service, for there can be no Tenure without some service; but that Services seem to be the effect of a Tenure. Touching so much of which as shall serve to our purpose these things are to be known.

1. A Tenure is said to be either perfect, which is between the very Lord and very Tenant; or imperfect, which is between the Donor and Donee, or Lessor and Lessee. A Tenure also is said to be Spirituall; and so it is either incertain, as Frankalmoigne; or certain, as divine Service. Or it is Temporall. And so it is more honourable, or for a time of war; such is all kind of Service in Chivalry, as Escuage, Cornage, Grand-Serjeanty, Knights Service in Capite, Knights Service or Chivalry, and Castle-Gard: or more base, and for a time of Peace; such is all Socage Tenure, as Petit Serjeanty,

janty, Burgage and Socage in Capite. But to hold in Fee farm is no Tenure at all. *Littleton's Tenures throughout.*

2. Lands and Tenements do lie in Tenure, and so (it seems) doth an advowson in gross, and of these a Tenure may be said to be; but not of a Rent, Seignior, Common, or the like, except it be in case of the King. *Broo. Tenure.*

3. Any man may extinct a Tenure, but no man but the King can create a perfect Tenure, or alter a Tenure to bring it to another, but in some special cases. *Co. of Copyhold, f. 55. Dyer 84.* And therefore if a Tenant in Fee-simple enfeoff another in Fee, neither by the express reservation of the Feoffor, nor implied reservation of Law, can a perfect Tenure be made; the Feoffee shall hold not of the Feoffor, but of the Lord paramount.

We shall speak but of two kinds of Tenures, Knights Service or Chivalry, and Socage. And first of Knights Service.

CHAP. XXIX.

Of Knights Service.

THis is such a Tenure, as whereby the Tenant is bound to go with his Lord in the Wars, or keep a Castle, or the like. Touching which this onely for our purpose is to be known.

1. This may be of the King; as when one doth hold of him as of his Mannor Dale, or the like.

2. To this doth belong Aid, Homage, Fealty, Ward, Marriage, and Relief; but it doth not draw any other Land with it, neither need the Tenant to sue Liverie for this Land. *Co. 1. part, A 75. 56.*

CHAP. XXX.

Of Socage.

IT is a Tenure whereby the Tenant doth hold of his Lord to pay him some Rent, or to doe him some Husbandry business for all manner of Services. Touching so much whereof as is needfull in this place, know this.

1. That.

1. That it is either free, *i.* to pay a certain sum of money in lieu of all Services; or it is villein, *i.* to plow the Lord's ground, carry his dung, or the like.

2. To this doth belong Aid and Relief, but not Wardship, Homage, or Marriage. *Co. 9. 130. Littl. Cap. Socage.*

CHAP. XXXI.

Of Services.

SERVICE is that duty which the Tenant by reason of his Fee oweth to his Lord. Touching so much whereof as we shall use here, know these things. Services as Tenures do admit of many divisions. Some of them are either more noble, as Knights Service, and the like; or more base and clownish, as Socage, and the like. Some of them were bound, and some free: some of them were Real, as Wardships, Marriages, or the like; and some of them are Personall or Corporall, (*i.*) to be done by mens persons or bodies: and these again are either of Submission, or of Profit. Of Submission, as Homage and Fealty. Of Profit, and this either

either to the publick profit of the Kingdom, or private profit of the Lord. To the publick, either for defence of the Realm; as first, all kind of Knights Service. Secondly, to repair ways and bridges. Thirdly, for works of Piety, to maintain a Preacher, repair Churches, or the like. Fourthly, for works of Charity, as to marry poor women, or the like. Fifthly, for works of Justice, as to aid the Sheriff, or the like.

To the private profit of the Lord, as Rent, suit of Court, to the Butler, Baker, or Carver to the Lord.

Some Services are annuall, to be paid or performed every year, as Rent, Suit of Court, and the like.

And some are accidentall, to be paid or done now and then, or at one time, as it falls out, as Heriot, Fealty and Homage.

These, some of them lie in Render, as to pay Rent: some lie in Prender, as that the Lord shall take four load of wood out of his Tenant's grounds: and some of them again lie in User, as that the Lord shall have Common for his Cattel in the Tenant's grounds.

These are also divided again into in-
tire

tire Services, as a horse, a spur, or the like; and into dividable Services, as money, and the like: and into certain, and uncertain: and into Services of fidelity, and no profit; or profit, and no fidelity. *Co. 6. 10. 108. Litt. 122.*

If the Tenant or Freeholder refuse to doe corporall Services, as Homage, Fealty, amend high-ways, bridges, or the like, do the office of a Butler, Carver, Baker, or the like, pale the Lord's Park, tile his Houses, thatch his Barn, or the like, being bound by his Tenure: the Lord may distrain the Goods or Cattel of his Tenant, and keep them till satisfaction. *Co. of Copyholds, f. 49.*

So if a Freeholder refuse to pay his annuall Rent or Service according to his Tenure, the Lord may distrain and avow the taking up of a Replevin. But so long as the Rent doth continue of any estate of Franktenant, no Action of debt lieth for the arrearages, no more then for a corporall Service. But after seisin he may have an assise for the rent. But after the estate is determined, an Action of debt will lie for the arrears of the rent. *Co. of Copyhold, f. 50.* But of this see more at large, *chap. 42.*

But

But accidentall Services are gotten either by seifure, as a Wardship of the heir's body, waifs, cstrays, wrecks, deodands, and such like forfeitures ; or by entry , as the Wardship of the heir's Land, so upon Land forfeit to the Lord upon the breach of some condition , or upon an Alienation in Mortmain ; or by seifure or distress, as Heriots, Service or Custom ; or by Entry, or Action, as Lands forfeit to the Lord by the cessor of the Tenant, or escheat upon the Attainder of the Tenant, or his death without heir : in the one case he hath a writ *Cessavit*, in the other a writ of Escheat : or by distress or action, as reliefs and amercements. For relief, which is no Service, but the fruit or imprisonment of a Service, the Lord may bring an Action of debt or distrain : and for amercements, the Lord may either distrain, or bring an Action of debt. Other remedies there are against strangers that detain these Services from the Lord. *Co. of Copyhold*, f. 50, 51, 52.

CHAP.

CHAP. XXXII.

Of Homage and Fealty.

Services of Submission are Homage, and Fealty, which are certain Ceremonies used amongst Tenants, whereby they submit themselves to their Lords, or bind themselves by solemn Oath or faithfull promise, from that day forward to become the Lord's men for life, member, terrene honour, or at least to owe him faith for the lands they hold of him. Touching which these things are to be known.

1. Thus far these agree, that they are both taken when the Tenant first entereth into his land.

2. They tend to one end, to enforce the Tenant to submit to the Lord. But they differ in many things. First, in doing Fealty, the Tenant taketh a solemn oath; in doing Homage, he only giveth a faithfull promise. Fealty therefore is more sacred, Homage more humble. For in doing Homage, the Tenant kneeleth; in doing Fealty, he standeth: in doing Homage, he is uncovered; in doing Fealty,

ty, he may be covered: in doing Homage, the Lord kisseth his Tenant; in doing Fealty, not: and in doing Homage, he promiseth to become the Lord's man for life, member, and terrene honour; but in doing Fealty, he sweareth onely to become the Lord's faithfull Tenant: for Homage concerneth war, and doth properly appertain to Knights Service; but Fealty chiefly concerneth Service at home, and properly appertaineth to Socage Tenure. Albeit Homage may be done by Socage Tenant, and that Homage *ex se* maketh Socage Tenure, & not Knights Service: yet it was not so from the beginning. Secondly, none but the Lord in person can receive Homage, but the Lord's Steward or Bailiff may receive Fealty. And the Lord who hath but an estate for life in his Seigniorie, cannot receive Homage, but he may receive Fealty. Thirdly, no Copyholder may do Homage, but he may do Fealty: no Tenant for life or years, but in Fee-simple or tail, can do Homage; but such a Tenant may do Fealty. Fourthly, Homage can be but once done to the Lord by the same Tenant; but Fealty may be often. And therefore if lands descend to me
from

from one, and I doe Homage, and after other lands descend from another, I shall not doe Homage again, but I shall doe Fealty. So if a Copyholder surrender to the use of *I. S. White Acre*, for this he shall do Fealty : if he surrender *Black Acre* to his use, he shall doe Fealty for this also. *Co. of Copyhold, Sect. 19, 20, 21.*

CHAP. XXXVII.

Of Suit of Court.

Suit of Court is the attendance which a Tenant doth owe to a Court : for which these things must be known.

1. That this is either reall or royall, which is the service that men owe to the Sheriff's Turn, and Law-days, which men are bound to by their Oath of Allegiance there taken, and by their residence and abode within the compass of the Leet, and not in respect of the Tenure of their land. And therefore if one have land in divers Hundreds, and he be distrained where he doth not dwell, he shall be discharged by a Writ. And for default of this Service, he may be amerced, and not distrained. Or it is Cove-

Covenant Suit, which is where one hath bound himself by Covenant to do Suit to another's Court, for remedy whereof he must sue the Covenant. Or it is Suit custom, where, by the custom of the place, one is bound to doe Suit of Court to this or that Court; so are some in the Leet Courts, Barons and Hundred Courts. And this is not to be done in respect of a man's residency or abode, but in respect of his Tenure of that land within the Mannor, Hundred or County where the Court is. And for this a man must be distrained, and not amerced; or he may be forced by a speciall Writ.

2. If the land to which the Service doth belong doth come into the hands of divers Parceners, the eldest must doe it, and the rest shall be contributory, and they may be compelled thereto by a speciall Writ for that purpose. So where there be many Feoffees or Joyn-tenants, one shall do the Suit, and the rest shall be forced to contribute. *Br. Suit 17. F. N. B. 58.*

CHAP.

CHAP. XXXIV.

Of a Gardian, Gard, and Wardship.

A Gardian is one that hath the custody of an Infant being under age, or of that which is his, or of both. The Ward is the Infant. The custody of an heir is called the Wardship. And a Gardian is either by Common Law, or by custom. By Common Law, as a Gardian in Chivalry, Gardian in Nature, in Socage, or because of nurture. The Gardian and Wardship in Chivalry is the Wardship of such an Infant, whose Ancestor held his land by Tenure in Capite, or Knights Service: And by reason thereof, his heir, be it male or female, and the land, must be in the custody and under the protection of the Lord during the Minority. And touching this, these things are to be known.

1. The Lord of whom the land is held by the Tenure shall have this Wardship as a chattel to his own use, to be sold or disposed, and to go to his Executors as other chattels.

2. He shall have the Wardship of the heir

heir male till one and twenty years old, of the female till sixteen, if she be unmarried at her Ancestor's death; but if she be married, or above 14 at her Ancestor's death, she is not to be in ward.

3. This Tenure draweth to it with the land the profit of the heir's marriage, which the Lord will have. *Co. 1. part Inst. 76. 88.* This Gardian is to take all the profit of the land without waft making, and to keep his goods and chattels safe to the heir's use: he is to give him fit education, and to protect him from hurt, marry him without disparagement, and when he is of age, let him have his land again. Unless it be where the heir marry himself, or will not be married by his Lord; in which case he may keep the land till he be satisfied for the value or forfeiture of his marriage. *Litt. in toto.*

4. If a child, living his father or mother, happen to be in such a case; his father or mother, and no other, shall have the wardship of his body; and then he is called a Gardian in Nature. *Broo. Gardian 110. Plow. 304. F. N. B. fol. 90. 143. Co. of Copyhold, 4. 26, 27.*

The Gardian and wardship in Socage
is

is the Wardship of such an Infant whose Ancestor died seised of land held by Socage Tenure, or in the nature of Socage Tenure, as Petit Serjeanty, Copy of Court Roll, or the like. And touching this, these things are to be known:

1. The next of kin to whom the heritage by the Heir's death will not descend, and that will not have benefit by his death, shall have this Wardship.

2. He shall hold the Land, and take the profits to the use of the Heir onely, and not to his own use; onely he shall have reasonable allowance for education and expences.

3. This Wardship shall continue no longer, but till the Heir be fourteen years of age, and then the Heir may call the Gardian to account for the profits of the Land. And if the Gardian marry his Heir before he be fourteen years old, he must account to him not onely for the profits of the Land, but also for the marriage, and shall pay to the Heir so much money as was offered him, or he might have had in marriage.

4. This Wardship is annexed to the person of the Gardian, therefore he

cannot grant to another; and if he die before the heir be fourteen years old, the Executor or Administrator shall not have it, but it must go to the next of kin: And if a wife have it, it will not be the husband's by marriage as a chattel will be. And therefore in all these respects it doth differ from the Wardship in Knights Service.

5. The Gardian's duty is not to do wast, but to preserve the Inheritance and the writings, and to give the heir fitting education, and at last to marry him with care, and to the heir's advantage, and not to give or sell the marriage. *Litt. cap. 4. in toto, and Co. upon it, Co. of Copyhold, f. 26, 27.*

If a man die seised of a Rent Charge, Common, or the like, and his heir is within age of fourteen years, here he may chuse his Gardian: and if he be so tender as he cannot, and the father have made no disposition by his Will, it is fit for the next of kin, or Gardian in Socage, if any be. However, whosoever doth receive the profits thereof shall be chargeable to the Infant in account. *Co. Super Litt. f. 87.*

The Gardian because of Nature,
who

who also is called a Tutor, is either Testamentary, (i.) such a one as is made so by Will; as when a man dieth with goods or chattels, or lands not held in Knights Service or Socage: or appointed by the Prætor, made by the Ordinary. Touching the first, these things are to be known.

1. He may give his goods and chattels to the child, and by his Will farther appoint some friend to have the government of his child, Person and Estate, untill he come to fourteen years old: for then he shall be out of Ward for his body, but his goods may be kept longer from him if his father's Will be so. *Co. of Copyhold, f. 23, 24.*

2. He may by his Will commit his Socage land to what friend he please, and for what time he please: but so he cannot do of Knights Service land.

3. If a Copyholder die, his heir under fourteen years old, the Lord must appoint his Gardian till he be fourteen years old, and the father cannot by his Will prevent it.

The Tutor or Gardian appointed by the Prætor, is made by the Ordinary; which is where the father in the case be-

fore doth give the estate to the Child, and appoint no Gardian. Touching which these things are to be known.

1. In this case the Ordinary may appoint one to be Gardian, till the Infant be fourteen years old.

2. After fourteen he is not to have any assigned, for then the Rule is, A Gardian shall not be forced upon a man. *Co. of Copyhold, fol. 26, 27.*

The Gardian by Custom is Orphans in the City of London, and other Cities. Some make a third sort, or Gardian by Statute Law, as *Coke upon Litt. fol. 38. 6.*

For the getting of a Wardship of the body, it must be by seizure of the Lands, by Entry. *Coke of Copyhold, fol. 51.*

If a stranger detain the Ward's body or Land from the right Lord, he may have a special Writ to relieve himself against him in this Case. *Coke of Copyhold, fol. 52.*

CHAP. XXXV.

Of Aid.

Aid is a yielding of help by one to another to whom he oweth it, and whose case calleth for it: and it is from a superiour to an inferiour; as when a particular Tenant is sued, and he in reversion helpeth to defend the suit: or from one equal to another; as when a Parcener is sued for and loseth part of the Land, she shall have aid of her fellow. Or it is from an Inferiour to a Superiour; so the Subject must help the King by Subsidy; so the Tenant is to aid the Lord, touching which these things must be known.

1. The Tenant by Knights Service, and Tenant by Socage, both are to yield it.

2. Reasonable aid shall be twenty shillings for a whole Knights Fee, of him that holdeth by a Knights Fee in Chivalry, and as much for twenty pound Land held in Socage: and so for the rate.

3. It is for two ends: To make the

Lord's son Knight, and to marry his eldest daughter,

4. That to make the son Knight, he may have it at his age of fifteen years; that to marry his daughter, at her age of seven years,

5. If he will not pay it, the Lord may distrain for it, or recover it by a special Writ for that purpose.

If the father levy it of his Tenant, and die before his daughter be married, his Executor, if he have Assets, otherwise his heir, shall answer what he received. *Westmin. 1.35. Coke of Copyhold, fol. 91. 162. F. N. B. 82. Coke 11. 44.*

CHAP. XXXVI.

Of Herriots or Harriots.

THis is the best chattel which the Tenant hath at the time of his death or alienation, which he is to render to his Lord. This in some places is his best live beast, in some places his best goods, in some places the best upon the Land, in some places his best goods where ever it be. *Coke of Copyhold, fol. 28.*

For

For the opening of this farther, know these things.

1. This is either by custom, as amongst Copyholders, when it is due and hath been paid time out of mind, according to the custom of the place, after the death or alienation of the Tenant: or by Service, when there is no such custom in the place, but it is by special reservation and agreement, that the Tenant shall hold his Land to pay a Herriot at the time of death or alienation.

2. Herriot Service is seldom received on any less estate then inheritance, but may be reserved on a lesser estate: but Herriot Custom is usually paid on an estate for life or years.

3. For Herriot Custom, albeit the Lord cannot shew the original of it, yet if he can shew how it hath been paid from time to time upon the death and alienation of the Tenants, it is good.

4. The Lord hath a property in this, and therefore as soon as it happens, the Lord may seise it whereever he finds it; and if it be detained, he may have a Detinue for it; if cloyned, an Action of the Case; or he may distrain for it, if he will.

5. If a woman be to pay a Herriot by custom,

custom, her husband's goods shall not be taken without special custom. *M. 8 Jac. B. R.*

6. One cannot by devise prevent the Lord of this duty.

7. If the custom be that if he die seised he shall pay it, and he is ousted and dieth before entry, yet he must pay it.

8. For Herriot Service, if it be certain, as a beast, &c. the Lord may either seise or distrain: but if it be incertain, the Lord cannot seise it, but he must distrain for it.

9. If the Lord chuse the worst, he cannot after help it, but is concluded.

28 Henr. 7. 13. Plow. 96. Kelw. 184.

8 Hen. 7. 10. Doct. & St. f. 76. March Rep. 23. Broo. Herriots in toto. Co. upon Litt. fol. 185. 16 Hen. 7. 5.

CHAP. XXXVII.

Of a Relief.

A Relief is a certain sum of money or other thing which the Heir of a Freeholder being of full age at the time of his Ancestor's death is then to pay

pay the Lord at the entrance of the heir into his Land. And this is all the Lord is to have of his Tenant when he is of full age. *Terms of the Law*. And it may be divided into Relief Custom, and Relief Service. Touching which these things are to be known.

1. This and Herriot agree in some things, but in this differ. First, a Herriot lieth in taking, and Relief in giving. Secondly, a Herriot is paid for a Tenant deceased, a Relief for an heir come to the Land. Thirdly, Herriots are paid by Copyholders, Reliefs by Freeholders onely. Fourthly, Herriots are ever upon some Custom or special Reservation, but Reliefs are incident to the Fee, and due without Custom or Reservation. *Co. of Copyhold*, f. 38.

2. There is a kind of payment like to this by special Custom in some places also upon the Alienation of the Tenant. *Co. of Copyhold*, f. 32. This is paid for Land held in Socage, and for Land held by Knights Service. If the King or other Lord have the Wardship of an heir within age at the death of his Ancestor, he shall have no Relief at his full age. *Magna Charta*, Cap. 3. And yet if the
King

King have the Wardship of other Lands by his Tenure by the nonage of the heir, the heir when he comes to age must pay a Relief to other Lords, and so to the King also, if he be to sue out no Livery. *Co. upon Litt. f. 71. Magna Ch. 13. Bro. Relief 13.* And generally where one shall be in Ward if he be within age, he shall pay a Relief if he be of full age. *Br. Relief 12.*

3. This is not alike for all Tenures, or in all places, and therefore incertain: in some places it is by custom a year's, in some places half a year's profit, and there the Custom is to be observed. By Tenure it is more or less, and in some cases to be paid at one time, and in some cases at another time. Regularly in case of Knights Service, if his heir be full twenty one years old at the death of the Ancestor. The Relief for a Dukedom two hundred pound, for a Marquess two hundred marks, for an Earldom an hundred pound, for a Barony an hundred marks, for a whole Knights Fee, which anciently was so much as was thought sufficient for a Knights living, a hundred shillings. And so for the rate, if the Tenure be by grand Ser-

Serjeanty, the Relief is the value of the Land for one year. If the Tenure be Socage Tenure, or in the nature of Socage Tenure, and the heir about fourteen years old at the death of the Ancestor, the Relief is double the Rent; (i.) if the Rent be ten shillings, the Relief is ten shillings more, which the Tenant must pay presently: And if he be to pay five shillings at *Easter*, or a pair of Spurs, the Tenant may double which he will; but if he pass the day, the Lord may have which he will. But for Corporal Services, as days work at Harvest, or the like, more Relief is to be paid. *Co. upon Litt. fol. 69, 83, 84, 91, 162. Coke 7. 33. Kelw. 136.*

4. For this Service the Lord may distrain, and cannot have an Action of debt, as some say: And his Executors may bring an Action of debt, but cannot distrain. Others, that the Lord may distrain or bring Action of debt. *Co. of Copyhold, fol. 51.* Where it is by custom, the Lord shall have the remedy accustomed.

CHAP. XXXVIII.

Of a Fine and Amercement.

THis word Fine is taken in divers senses; but to our purpose here, It is a sum of money imposed upon a person by the Steward in a Leet, for some offence or misdemeanour committed in his presence: and an Amercement is also a penalty assessed or pecuniary punishment for some offence done by way of Omission or Commission. As touching which these things are to be known.

These agree in some things, for they are penalties imposed for offences: but they differ in these things. First, a Fine is commonly for some great offence, and is a greater sum; an Amercement for a less offence, and a lesser sum. Secondly, a Fine is in a Court of Record onely, and therefore a Court Baron, which is no Court of Record, cannot fine; and therefore this Court can amerce onely: But a Leet may amerce as well as fine. Thirdly, a Fine need not be assented, but an amercement

ment commonly so may be, and must be. *Co. 8. 61. of Copybold, f. 40.*

And for so much of this as doth concern our present purpose, these things are to be known.

1. For any misdemeanour in the face of a Court; as if any one use contemptible words to the Steward or Jury, a Juror refuse to be sworn, or an Officer of the Court neglect his duty or be corrupt, if it be in a Leet, the Judge may fine the offender, but if it be in a Court Baron, he can onely amerce him: And if the offence be out of Court, the Jury must present it, and then the offender must be amerced by the Jury; except it be by Officers of the Court, for then it may be done by the Steward, and needs not to be assented. Likewise if it be a Township or Village that doth offend, the amercement must be put upon the whole.

2. The amercement must be reasonable, otherwise the party grieved may relieve himself by a *Moderata Misericordia*. *F. N. B. 75. Co. 11. 43. Co. 8. 61. 59. Co. of Copybold, 40, 41, &c.*

CHAP.

CHAP. XXXIX.

Of a By-Law.

BY-Laws are Orders made in a Court Leet, Court Baron, or elsewhere, by common consent and agreement, for the good of those that make them, to bind them farther then the publick Law doth bind. Touching which these things as material in this place are to be known.

I. That the Inhabitants of a Village, or other such peculiar Society, or the major part of them together in their Court Leet, Court Baron, or otherwise, by a mutual consent and agreement of such major part, may make any Ordinances and Orders for the better government of the place: as for repairing Churches, Bridges, High-ways, or otherwise for the publick good. And for such like things as these by the very Common Law, without any special custom, this being made by the major part, will not onely bind them who did agree to it, but all others of that society, or within the Leet, if it be made there. And they may hereby

hereby make taxes upon all the Inhabitants, appoint publick Officers to levy them, and penalties, as by another Law. But for such things as concern the private, well and better government of the place onely, without a speciall custom to warrant it, they cannot make such By-Laws: neither will in this case the greater part bind the rest, without a speciall custom to warrant it. *Co. 6. 63. 5. 63. 11 H. 7. 14. 21. 21 H. 7. 20. 40. 44 Ed. 3. 19. Bro. Leet 34. Prescription 40.*

2. If a Tax or Amercement be put upon a Village, and the major part agree what every man shall pay, and they refuse, it seems they may appoint one to levy it, and he may distrain for it, and justifie the distress. *D. & St. f. 74.*

Distress.

3. No By-Law in this case can be made to imprison the Refusers, but distress and action of debt in this case is the proper remedy for a penalty imposed, or breach of a By-Law. *Co. 5. 64.*

Imprisonment.

4. Such By-Laws as are against Law and Reason are void.

5. The Lord may by Prescription distrain for the Amercements upon them, and sell the distress. *Bro. Leet 34. Prescription 34.*

CHAP. XL.

Of a Forfeiture.

A Forfeiture is the effect of transgression of some Law, or of the committing of some offence; by the doing whereof, some reall or personall thing is forfeit. And this may be of Land, or of goods or chattels. And of Lands, it may be either of Copyhold Land, or of Freehold Land. Of Copyhold Land we have spoken before in Chap. 21, 22, 23. Touching forfeiture of Freehold Lands these things are to be known.

1. If any Freeholder doth alien his Mortmain. Land in Mortmain, he forfeiteth his Freehold.

Cessavit. 2. If a Freeholder do cease for the space of two years to perform his Services, or pay his rent he is bound to by his Tenure, and hath not sufficient Goods and Chattels upon his Land, whereby to be distrained, he forfeiteth it.

3. If the Freeholder breaketh any condition whereto he is tied, he forfeits his

his Freehold. *Co. of Copyhold, f. 44.* Many other ways may an estate of Freehold be forfeit, of which we shall not make mention here. And touching the forfeiture of goods, these things are to be known for this purpose.

1. If a Felon stealeth goods, and upon Waif. purfuit made waiveth them, and leaveth them in any part of the Mannor, and be not attached upon the fresh suit of the owner, these goods are a waif, and forfeit to the Lord, who may seise them.

2. If any beast be found wandring *Estray.* in any place, and taken up, and proclaimed in three market-Towns adjoining, and not claimed by the owner within a year and a day, this is an estray, and forfeit to the Lord.

3. If any suffer shipwreck on the Seas, *wreck!* and by the violence of the waves the goods are cast upon the shore, and being seised by the Bailiff, are not claimed within a year and a day, this is wreck, and forfeit to the Lord, who may seise upon it.

4. If any come to an untimely death *Deodand.* without the fault of any reasonable Creature, the cause of this death, as a Deodand, is forfeit to the Lord; as a

tree, or cart with horses falling, or horse striking, these are all of them Deodands. And many other ways may goods and chattels be forfeit, whereof we cannot speak here. And these albeit they be not incident to Mannors, yet must Lords of Mannors claim, and may have them by Prescription or Patent from the King: *Co. of Copyhold, f. 44, 45.*

CHAP. XLI.

Of Escheat.

EScheat is where a Tenant in Fee-simple land dieth, not having heir generall or speciall to be capable of the Inheritance, in this case the Lord shall have it. Touching which, these things are to be known.

There are two Causes of this Escheat. First, attainder of the blood by doing of Treason or Felony. Secondly, failure of the blood by extinguishment or Bastardy.

2. There can be no Escheat of entailed land, but of Fee-simple land onely.

3. There shall be no Escheat of things in Action, Uses, Condition, Rights of Entry

Entry and Action, but of Land onely.

4. If all the heirs be dead, and there is no heir to be found of the Land; or the Ancestor's blood is corrupt by Treason or Felony done by him; or the Ancestor be a Bastard, and die without issue of his own body, for no other body can be heir to him, nor can he be heir to any other; in all these cases the Lord shall have the Land by escheat.

5. If the Bastard or Tenant be disseised, and die without heir, yet the Lord may enter: But if the disseisor die, or *Quere.* alien the land to another with good faith before entry, the Lord cannot enter. But in all other cases the Lord may enter for the Land, or maintain an escheat for recovery of the Land. *Co. of Copyhold, f. 48. upon Litt. 268, 312, 314.*

6. In case of Treason the King shall have the forfeiture, and in case of Felony he shall have year, day, and waste: and then the Lord shall have it, and till then the Lord is not to have it.

7. But before the Lord in this case is to take advantage of it, the Homage where there is a Court shall do well to present it; and then Proclamation is to be made, that if any shall come in and

make a just Claim to it he shall be received: which no man doing, the Title is clear in the Lord. *Co. of Copybold, f. 84.*

Our subject matter in hand being about the Profits of a Mannor, the Services, Duties and Performances of the Tenants, and the payment of Rent being a speciall part thereof, we shall add this Title by way of Appendix alone and by it self, and so end this Treatise.

CHAP. XLII.

Of a Rent.

What it is,
and the
kinds
thereof.

A Rent is a sum of money or other consideration issuing yearly out of Lands or manuell Tenements. *Redditus à redeundo, quis retroit, vel à reddere, i. retro dare.* This differeth essentially from an Annuity: for a Rent doth always issue out of Lands or Tenements, and the Land also is the debtor; otherwise it is of an Annuity, which is chargeable upon the person of a man only, and he alone is the debtor for this. *Co. upon Litt. 141, 142. Plow. 132, 138, 139.* And of Rents there are said to be three kinds.

1. Rent

1. Rent service, which is, where a man doth hold his Land of his Lord by Fealty and certain rent; or to render and yield hens, capons, roses, spurs, bows, arrows, horses, wheat, or the like: or to perform any Office, or yield any attendance, or the like. And to this rent distress is incident of common right.

Rent service, what it is.

Distress.

2. Rent charge, which is where an estate is made of Lands or Tenements to another in Fee-simple, Fee-tail, for life or years, rendring a sum of money, or other thing, to be paid yearly to him that made it and his heirs: and there is a Clause in the Deed, that if the rent be behind, it shall be lawful for the Feoffor, Lessor or Donor to distrain for it upon the Land. Or where one doth grant a rent out of his Lands or Tenements to another in Fee for life or years, with such a power to distrain for the rent, if it be behind. And to this no distress is incident of common right, but by the agreement of the parties, the Land is charged with the distress; and hence it is called a rent charge.

Rent charge, what it is.

3. Rent seck is, where a rent is reserved or granted (as in the case before) without any Clause of distress,

Rent seck, what it is,

or power to distrain: and this is called *redditus sicus*, a dry rent; because he that is to have it, till he hath gotten seisin of it, he hath no remedy to recover it if it be denied to him; and then he hath no other remedy but an Assize for the recovery of it. *Terms of the Law, Rent, Co. upon Litt. 142. Litt. chap. 12. Finches ley 155. Do. & St. chap. 30.*

And regularly, a man cannot have or challenge or make a Title to any kind of rent, unless it be a rent service, or a rent charge in the case of Prescription, or for equality of Partition, unless he have a Deed to shew for it. *Co. 6. 63. Litt. 40. Co. upon Litt. 142. 146.*

2. What kind of Rent it is.

Rent service.

IF one be seised of Land in Fee, and make a gift of it in Tail, or make a gift in Tail to one, the remainder in Tail to another, or a Lease for life or years, keeping the reversion in him, without any Clause in the Deed enabling him to distrain for it; this is a rent service. And if he in reversion grant away his reversion to another, and the Tenant attorn; this is a rent service still.

still. But if the reversion be gone, it doth continue no longer a rent service; for there can be no rent service, but where there is a reversion. *Litt. Sect.* 214, 215. 228, 229, *Plow.* 132. 142. *Co. upon Litt.* 162.

And therefore if one by Deed inden- Rent seck,
ted make a Feoffment in Fee to one, or a gift in Tail, or a Lease for Life or years, to one, with the remainder over to another in Fee, and reserve a rent upon any such estate, without any Clause of distress for not payment; this is a rent seck, not a rent service. So if one seised in Fee of Land by Deed Poll or Indenture, grant a rent issuing out of his Land without any Clause of distress for not payment; this is a rent seck. *Litt. Sect.* 214, 215, 217. *Co.* 6. 58. *upon Litt.* 150, 151.

If there be Lord and Tenant, and the Lord grant the rent except the Fealty, (which is incident to every rent service) this is a rent seck. *Perk. Sect.* 113. So if one hold his Land by Homage, Fealty, and other Services, yielding a rent, and the Lord grant away the rent, reserving the Services, or grant the Services, saving the rent; in these cases the
rent

rent is a rent seck. *Litt. Sect.* 226, 227.
Co. upon Litt. 151.

If one lease Land to another for life rendring rent, and after he in reversion grant away this rent to another; this during the life is a rent seck. *Litt. Sect.* 228.

It is said, if a man grant rent out of three Acres, and grant over, that if the rent be behind, that he shall distrain for the rent in one Acre; this is a rent seck in all, and yet he may distrain for this in the third Acre. So if a rent be granted to one and his heirs out of an Acre of Land, and that it shall be lawfull for him to distrain for term of his life; this is a rent charge for his life, but after a rent seck. But if it be that he shall distrain for a certain number of years, this is a rent seck always. *Co. upon Litt.* 147.

Rent
Charge.

If one devise a rent by Will in Fee-simple, Fee-tail, for life, or for years, without any clause of distress; this is a rent seck: but if it be with a clause of distress, it is a rent charge. *Co.* 6: 56.
Dyer 348.

If one make a Feoffment in Fee, gift in tail, Lease for life or years, of Land to
 one,

one, or a gift in tail, lease for life or years, with the remainder over to another in fee, and upon any such estate reserve a rent, and in the Deed there is a power to distrain in the Feoffor, Dónor or Lessor, if the rent be behind; this is a rent charge. *Co. upon Litt.* 143. *Plow.* 132. *Litt. Sect.* 217. So if one by Indenture or Deed Poll grant a yearly rent to be issuing out of his Lands to another in Fee-simple, Fee-tail, for life or years, with such a power in the Deed. 13 *Ed.* 4. 6. 5 *H.* 6. 6. *Litt. Sect.* 218. So if the Tenant of the Land chargeable with a Rent seck, grant a power to distrain upon the Land for the rent to him that hath it; this is now become a Rent charge. *Dyer* 348.

So if one Coparcener upon a partition, to make an equality, agree that the other shall have a rent out of his part of the Land; this is a rent charge, for which the other may distrain, though there be no Deed for the Rent, nor Clause of distress in a Deed. 15 *H.* 5. 5.

3. *What shall be said a good rent by grant or reservation, or not, and how it shall be taken.*

In respect
of the
thing out
of which
it is gran-
table.

IF a Feoffment, gift in Tail, or a Lease, be made of a Mannor, Lands, Meadows, Pastures, Mill, or any such like corporeal hereditament, rendring a rent, or a rent be granted out of any such thing, it is good: So if it be out of the vesture or herbage of Land, or a Rectory or a mesuallty. But a grant or reservation of rent out of a thing not maynorable, as a Fair, Market, Rent, Tiths, Advowson, Hundred, Fishing, common Office, the next avoidance of a Church, right of Land, Corrody, Multure of a Mill, Franchises, and the like incorporeal Hereditament, is not a good rent; for a rent must be always reserved out of such a thing to which the party may resort for a distress. *Co. 7. 27. 38. Co. 4. 10. 49. Plow. 157. 138. Co. 1. part 47.* And yet if one be seised of a reversion or remainder of Land after a Lease for Life or years, or gift in Tail, and grant or reserve a rent upon this Land; this is a good rent, and when it comes in possession either by determination

nation of the time in course, surrender, or otherwise, it will take hold of the land. *Co. upon Litt.* 144. 47. *Plow.* 198.

If one that hath but a Lease for years of land make a Lease of it rendring rent, or grant a rent out of it; this is good during the Term: And if he grant for longer time, it is good during the Term. *Co.* 2. 36. 14 *H.* 7. 2. But if one be seised in Fee of *White Acre*, and possessed of a Term in *Black Acre*, and grant a rent out of both these for life; this rent shall issue out of *White Acre* onely: Yet both the Person and both the Acres shall be charged as long as the Term lasteth; and after the Person and *White Acre* onely. *Co. upon Litt.* 146. *Co.* 7. 23.

If one be disseised of land, and after grant a rent out of it; this is void. And yet if the grant be by Fine or Indenture, it may be good by way of Estoppel. *Co.* 2. 53.

If one grant a rent reserving a rent, or grant a rent issuing out of another rent, these grants and reservations as to create a rent are void. *Co.* 10. 60. 1. 59. And yet in the cases before of a rent granted or reserved out of things not may-

Annuity.

In respect
of the
manner of
granting
or reserva-
tion.

maynorable, albeit the grant or reservation cannot be good as to the creation of a rent to charge the thing out of which it doth issue; yet it will be good to create an Annuity to charge the person of the grantor. *Kelw. 161. Co. 6. 58. 10. 93.*

A rent may be granted or reserved by Fine or a Deed of bargain and sale, as well as upon a Deed of Feoffment or Lease. *Co. 2. 72. Sta. 27 H. 8. chap. 10. Co. upon Litt. 144. 193.* A rent may be reserved on a release that doth enure to enlarge to make an estate; but not upon a release that works by way of extinguishment or *mitter de droit*. A rent may be granted by will also, and therein also may be given a power to distrain as well as by Deed. *Co. 1. 84. Dyen 348.* But it cannot be had or claimed, nor is it grantable but by Deed, except in some speciall cases. *D. & St. 86. Bro. Reservation.* As upon a partition of land, and by a speciall Prescription that he and his Ancestors, whose Heir he is, have been seised of it, and used to distrain for it. *Co. upon Litt. 146. 144. Co. 6. 58. 63.*

If one having an estate in *White Acre* grant 20 s. out of [or from] *White Acre*, or 20 s. of Annual rent to *I. S.* yearly taken

taken from *White Acre*, or to be taken at *White Acre*, or to be taken in or at *White Acre*, or out of his Coffers, with a clause, that if not paid he shall distrain in *White Acre* for it: Or thus, If I oblige my self to I. S. and his heirs, in an annual rent of 10*l.* which I take of my Mannor of S. and I oblige my Mannor aforesaid to be distrained: Or thus, If one have a Mannor, and say, I oblige my Mannor of C. and all the goods in the same Mannor being mine, to I. S. &c. in annual rent of 20*s.* to be distrained by the Bailiff of our Lord the King for the rent aforesaid: Or if one by Deed in a way of Covenant to pay 10*l.* a year, and not by way of reservation or grant to do a thing, that as often as default shall be, he shall forfeit 10*l.* These and such like are not rents, but sums in gross, nor recoverable as rents, but by action of debt or covenant. *Dyer* 361. *Pl.* 133. *Dyer* 24. And if one grant 40*l.* a year out of his Coffers, or out of his clear gains, or out of the Land of a stranger, or out of a thing, not chargeable with rents in these and the like cases it is not a rent, but an Annuity chargeable on the person onely. *Co.* 6. 58. 10. 93. All grants of rents after either of

Sum in
gross.

Annuity.

of these, or in any such like form, may be good to charge both the person and land. 46 Ed. 3. 48. Co. 7. 23. *Kelm.* 161. 4 Ed. 2. 15. 46. 22. *Aff.* 66. 21 H. 7. 4. *Dyer* 45. 26 H. 8. 5. Co. upon Litt. 245.

If one grant a rent out of all his lands, and that if it be behind, he shall distrain in *White Acre* for it; this is good to charge the person and *White Acre* only, not any other land. Co. 7. 23. So if he grant it out of one Acre, and if it be behind, that he shall distrain in another Acre; both the Mannors are charged, the one with the rent, the other with the distress for the rent. Co. Inst. 147. 9 H. 6. 9.

If one grant to another that he shall distrain for a rent of 40 s. a year in *White Acre*, if it be not paid him yearly at *Michaelmas*; this is good to charge this land, but not to charge the person of the Grantor. *Plow.* 139. Co. 7. 24. Litt. 219, 220. If I have twenty Acres of land, and grant a rent of 20 s. to be taken of every Acre of land; this is a good grant, and severall out of every Acre 20 s. 20 l. in the whole. Co. upon Litt. 147.

If a reservation of rent be in a Deed, and say not to whom; yet this is a good rent, and shall continue as long as the estate,

estate, and shall go to the heir or him in reversion. *Dyer* 45. *Kelw.* 88. But if it be rendring a rent to a stranger who is no party to the Deed, this is void. 27 *H.* 8. 19. And yet if he be a party to the Deed, although he have no interest in the land, it is good enough. *Bro. Reservation* 15. 12. *Plow.* 55. And if the reservation of the rent be to the Lessor, and a stranger who is no party to the Deed, it is void as to the stranger, and the Lessor shall have the whole. So albeit the Lease be made by the Father and his eldest Son, rendring rent to the Son, or a Lease to begin after the Father's death, rendring rent to the Son. *Trin.* 12. *Jac. Oates Case Adjudge.* If the estate be void upon which the render of rent is made, the rent is void also. 14 *Car. B. R.* If lands be given in frank marriage reserving a rent, the reservation is void till the fourth degree be past, and then it is good. 26. *Aff.* 66. *and 100.*

If one seised in Fee of land grant a rent out of it to L. S. for life, and after a clause that he and his heirs may distrain in the land for the rent; this is a good new grant of a new rent in Fee-simple over and above the grant for life:

lib. Coke upon Littleton, 147, 148.

If one by Deed indented demise to A. for life with divers remainders over, rendering therefore to the Lessor and his heirs a rent, this reservation shall extend to all the estates; and if he in remainder accept the estate, he must pay the rent. Co. 10. 107. 5. 221. And if one lease for a year with these words, And if the parties shall agree for a new Lease for longer time, then for three years, rendering during the Term aforesaid; this reservation shall extend as well to the first year as to the three last years. Co. 10. 106.

If one grant a rent charge out of his land, provided that it shall not charge his person in an Amunity; that is a good rent as to charge the land, but not the person. And yet if it were without clause of distress with such a proviso, the proviso were void, unless the Grantor did give the Grantee seisin of the rent at the time of the grant. Co. 6. 58. upon Lit. 146.

4. The remedy here means to recover a rent, and the arrangement thereof.

If one have a Freehold rent, and have given actual seisin thereof, and he after

after be disseised of it, he may have an assise to recover it, and damages for it, which in an Assise he shall recover: but in a Rescous he shall recover damages openly, and the thing distrained shall be taken as a distress. But if one that never had seisin of a rent distrain, and a Rescous be made, he cannot have an Assise, but he must have a Rescous. Co. 1. 97. And here note, that the disseisin of a rent is when the party is disturbed in the means of recovery of his rent, which for a rent charge is said to be five ways.

1. By Rescous, which is when the party is distrained, and the distress is rescued; or being upon the land to distrain, he cannot be suffered.

2. Replevin, which is when an Action of Replevin is brought upon the distress taken.

3. Denier, which is the denying or not payment of the rent on the land when it is required.

4. Inclosure, which is when the party doth come to the place whence the rent doth issue, or he hath power to distrain, and it is inclosed by walls, or the like, that he cannot come at it; but if it be not newly, but were anciently inclo-

fed, then were it no disseisin.

5. Forestalling, which is when the party is going to distrain for the rent, and the Tenant hearing of it doth forestall the way with force and arms, or threaten to kill or wound, so that he dare not go to distrain. The disseisin of a rent service is said may be by Rescous, Replevin and Inclosure. The disseisin of a rent seck is said to be by denying, inclosing and forestalling. *Coke upon Litt.* 160, 161. 153. *Litt.* 236, 237, 239, 240.

In some cases a man may have an Assise to recover his rent; in some cases he may distrain; in some cases he may have an Annuity or an Action of debt; in some cases he may re-enter upon the land for non payment of the rent; and in some cases he hath his choice to do the one or the other: but in case where a man may distrain, he may not distrain in any place but there where the distress is given; *Litt.* 48. *Plow.* 239. nor may he distrain after the estate is ended; nor may he distrain and keep the goods against a Replevin, albeit the Deed say he shall keep the distress against gages and pledges. *Cor upon Litt.* 145. 282.

If one at *Michaelmas* make a Lease for years rendring rent at *Michaelmas* or ten days after; in this case the Lessor may bring an action of debt for the last year's rent, and suppose it to be due at *Michaelmas*. *Barwick's Case Trin. 9 Jac.*

If a Lease be made rendring rent on condition of re-entry for not payment, and the Lessor re-enter, yet he may bring an Action of debt for the rent. And in the case where a re-entry is given, if the Lessor make a demand duly, if after he receive the rent, yet it seems he may enter upon the Land. *Kelw. 112.*

153.

The Lord may distrain for a yearly rent due from a Freeholder, but he may not have an Action of debt for it, or for any corporal service, as long as the same doth continue; but when the rent is ended, an Action of debt will lie. *Co. of Copyhold, 50.* But some say that for a rent service due upon a gift in Tail or Lease for life, he may onely bring an Assise or distrain; and that an Action of debt lieth onely for a rent service reserved upon a Lease for years. *Litt. Sect. 213. 331. Perk. Sect. 693.*

Rent
service.

If one that hath a Lease of land for

Q 3

years

years, grant it over for a part of the time rendring rent; in this case the Lessor may distrain or have an action of debt for this rent; and therefore it is taken for a rent service. *Plow. 526. 9 H. 5. 8. Perk. Sect. 693.*

Rent
charge.

If a rent charge be unpaid, the party that ought to have it may in some cases have an Assise for it, and in all cases either distrain for it, or he may bring an Annuity against the person of the Grantor, at his election, except one of the remedies be prevented by the Originall agreement; as where a rent is granted, provided it shall not charge the person of the Grantor, &c. But where the party hath a double remedy, he may not make use of both: for if in case where the person is chargeable, and the Writ of Annuity doth well lie, if he bring this Writ or an Assise where it lieth, and make his plaint in the Assise, or declare upon the Writ of Annuity; by this the Land is discharged for ever. And if he once distrain and avow for it in a Court of Record, by this the person is discharged for ever. But the bare purchase of the Writ of Assise or Annuity onely doth not determine the election.

on. *Dyer* 344. *Litt. Seil.* 219. *Co.* 7. 34.
Plow. 13. *Dyer* 362. *Co.* upon *Litt.* 145.

If one have a rent charge for years, and the Term expired, in this case he cannot distrain for the rent; per two Justices, *Plow.* 10. *Car.* B.R. but he must have an Action of debt for it.

If a rent charge be granted with proviso, that it shall not charge the person of the Grantor, and the rent is behind, and the estate is determined, so that now he may not distrain for it; in this case he may bring an Action of Debt, and charge the person. *Co.* 7. 37. *Dyer* 227.

If one have a rent seck, and it be not paid, he may distrain for it in three cases. First, where a woman hath it in part of her dower. Secondly, when a King is to have it. Thirdly, when a Parcener is to have it to make an equality of partition. But in all other cases there is no remedy for recovery of a rent seck but by an Assise; nor can this be had neither, till he have got seisin of the rent in a legall way. *Kelm.* 104. *Co.* 7. 28. 6. 56. 58. *Litt.* 235.

Rent seck.

5. *Who shall have the rent and remedy, and upon whom it shall be charged, or not.*

THe rent in most cases doth follow the reversion of the land, if there be any, as the shadow doth the body. *Co. 5. 55. Dyer 5.* Recoverers upon common recoveries shall have the same remedy for their rents by distress or action of debt against the Lessee for years before attornment as the Recoverees had. *Stat. 7 H. 8. chap. 4. Co. upon Litt. f. 104.*

Executors shall have the like remedy for rent charge and rent services due to their Testator as their Testator had; and for the arrearages due in their Testator's time, they may distrain the Tenant of the land, whether he be heir or Feoffee to him that should have paid it, or heir or Feoffee of the heir, or Feoffee, and so infinitely, issues in Tail or *Cestuy à que use*, or any other that come into the land from or under him that should have paid it. *Stat. 32 H. 8. chap. 37.* If I make a Feoffment in Fee, gift in Tail, Lease for life or years of land, rendring rent to me, or a rent be granted out of land to me in Fee, in Tail, or for life, and the rent be in arrear, and I make my Ex-
ecutor

ecutor and die, and the land or rent descend to my heir; my Executor and not my heir shall have it, and the action of debt for it. *Co. 4. 48. 50. Dyer 375. Co. upon Litt. 162.* If a rent be granted to me, my heirs and Executors, during the life of *L. S.* and for one half year after; in this case my Executor shall have this half year's rent. *Curia M. 7 Jac. Co. B. Watts Case.* But if a Lease be made for years rendring rent to the Lessor and his heirs at *Michaelmas*, or within ten daies after, and the Lessor during the Term doth hap to die after *Michaelmas* before the ten days be expired; in this case the heir, not the Executor, shall have the year's rent. *Hil. 7 Jac. Curia B.R.* And if within the ten days he had granted away the reversion, and the Tenant had attorned, the Grantee of the reversion shall have the rent. *Co. 11. 12.* If one seised in Fee of Land make a Lease for years of it rendring rent, and then devise the rent to a stranger by will, and the Devisee die; in this case it seems the Executors must have it, not the heir. *Dyer 5. 6.* If the reservation of the rent be to no body, the arrears shall go to the Executor, and the rent forwards as in the cases before. So if
the

the reservation be to him or his heirs. *Dyer* 204. If one seised in Fee of a house make a Lease thereof, and of certain implements therein, for years, rendring rent to him, his heirs and assigns, and the Lessor die; in this case the rent shall go to the heir all the time: But if the Lessee had covenanted to pay so much money during the time; this sum had gone to the Executor. *Dyer* 361. 275. And if one grant a rent for life out of his land, and the rent is arrear in divers Feoffees times one after another, and the Grantee die, his Executors may have an action of debt against every one of the Feoffees for his time. But if a Tenant in Tail make a Feoffment, and the discontinuee charge the land, and after enfeoffe the issue in Tail and die; the issue is remitted to his first estate, and shall not be charged with this rent. *Co.* 7. 37. So if one have a rent charge or rent service in Fee, or for life, and it be arrear, and after he grant away the rent to another, and the Tenant attorn, and then he die; in this case the Executor shall not recover the arrears, but they are lost. *Co.* 7. 37.

If one have a rent charge or rent service *pur antier vie*, and the *cestuy que vie* die,

die, yet the party may have his remedy against the occupier of the Land by distress. As if one devise a rent out of land by will, with clause of distress to B. for the life of C. and the heir to whom the land charged doth descend doth lease it to D. the remainder to E. in Fee, and the rent is behind in the life of D. and D. die, and after C. die: now in this case the land in the hands of him in the remainder shall be charged with these arrears, and the party may distrain for them. *Stat. 32 H. 8. ch. 37. Co. 6. 118.*

All arrearages of rent incurred and due to the wife before or after marriage, the husband shall have, if he survive her; as if she be endowed of a rent, and take a husband and die, he shall have the rent arrear during the coverture, and remedy by the Statute of 32 H. 8. *Co. 4. 51. super Litt. 3. 51.* So if he make a Lease of his wife's land rendering rent, and she die, he shall have the rent due in her life time. 9 H. 6. 52. And yet if the husband be seised of a rent in the right of his wife, and the rent incur, and the husband dies in this case the wife shall have the arrears: by 3 *Justices* 22 *Jac. B. R.* 9 H. 6. 43. 22 *Ed.* 3. 40. If any rent charge or
rent

rent service be due to any single woman who doth after marry, or to any married woman during the coverture; in these cases the husband, his Executors or administrators, shall have the same remedy by distress or action of debt as the wife had. As if some sole have a rent charge granted to her for life, and the rent be behind, and after she take a husband, and the rent be behind again, and she die; the husband may recover both these rents. *Stat. 32 H.8.ch. 37.Co.4.50.F.N.B. 121.Co. upon Litt. 162.* If one grant a rent charge to *A.* and *B.* for 21 years if the Grantor live so long, and after *A.* and *B.* entermarry, and then the rent doth incur, and *A.* die, and after more rent doth incur, in this case the woman, and not the Executor of her husband, shall have all the rent before and after the husband's death. *Hill. 22 Jac. B. R. the Court in Burgers Case 33 H. 6. 20.* If a woman and her second husband lease the Land she was endowed of by her first husband, rendering rent, and this is behind, and she die, the second husband, not the heir of the first husband, shall have this rent. *Broo. Rent 10.*

If a man seised of a Term of Land
for

for 20 years in the right of his wife, lease the same Land for 10 years to a stranger rendring rent, the rent is behind, the husband die; it hath been said the Wife, and not the Executor, shall have the rent. *Perk. Sect. 834.* But the contrary hath been adjudged *inter Blaxton & Heath King's Bench. Co. upon Litt. 46.35.* Yet the wife shall have the rest of the Term. If the husband be possessed of a Term of land in the right of his wife, and he let part of it rendring rent and die, the wife shall not have this rent, but the Executor of the husband. *Dyer 180. 107. 104.*

If *A.* a Termor die, and make *B.* his Executor, and *B.* make a Lease of part of the Term to *C.* rendring rent and die intestate, and *D.* get an administration of the goods of the first Testator, in this case *D.* shall not have the rent, by *Justice Haughton-Hill. 18 Jac. B. R.* because he comes about it. And if *A.* Tenant in tail discontinue to *B.* who doth lease to *C.* for years rendring rent, arrearages do incur, *A.* dies, his issue doth recover against *B.* in a *Formedon*; yet the Lessee shall pay the arrearages to *B.* by *Justice Haughton 18 Jac. B. R.*

If

If one seised of land as heir of the part of the mother, make a Feoffment in Fee of it, rendring rent to him and his heirs; this rent shall go to the heirs of the part of the father: but if it had been a Lease for life, or gift in tail, it had gone to the heirs of the part of the mother. If the husband have a Lease in the right of his wife rendring rent, and the rent is behind during the coverture, and she dies in this case he shall be charged by a suit for this rent after her death. *Kelm. 81. 10 H. 6. 11.*

6. *Where a rent shall be said to be determined and extinct in all or part, or not, but shall be apportioned; and where it shall be apportioned, or not.*

WHere the estate to which the rent is annexed doth determine, there the rent as to the land is determined. And yet there in some cases the person shall be charged after with it in an Annuity. If there be a Lessee for life, or years determinable upon life, and this Lessee make a Lease for years, reserving rent to be paid at the four quarter Feasts, and the life die, the rent is gone; and if he die before the quarter-day, the quarter's rent is gone. *Co. 10. 127.* So if one make

make a Lease at will rendring rent, and after the Lessor doth determin the Will, the rent is gone. *Termes Ley.* So if a rent be granted in respect of an Office, and the Office be determined, the rent is gone. *Plow.* 381. If all the land out of which the rent issueth be recovered from him that hath a Title before the day of payment; as if there were a Judgement against the Lessor before the Lease, and after the Lease execution is sued out by an *Elegit* or otherwise, so that the Lessee is rightfully evicted out of all the land; or a Disseisor charge the land, and the Disseisee doth recover it in an Assise, or the like; in these cases all the rent is gone. But if the eviction be but of a part of the land, there shall be an apportionment of the rent. And if one that hath land rightfully charge the land, and another that hath no right doth recover it in a feigned action, this will not determine the rent. *Co.* 10. 127. *Plowd.* 71. 134. 37 *Eliz. B. R. Dayes Case.* And if a Disseisee release his right to the Disseisor after his grant of the rent charge, the rent will continue. But if the Disseisee enter and make a Feoffment, by this the rent is gone. *Co. upon Litt.* 177.

If

If a rent be granted to one and his heirs in Fee, or to a Corporation in Fee, and the man die without heir, or the Corporation be dissolved, it seems the rent is gone. 27 H. 8. 10. If *A.* give lands to *B.* and the heirs of his body rendring rent, and *B.* doth bargain and sell the land to *C.* and his heirs, and therein covenant that *C.* shall enjoy it after the Annunciation of *Mary* next free from all incumbrances, and before that day a common recovery is had against *C.* in which *B.* is vouched to the use of *C.* and his heirs; in this case the rent is not gone. *Hill.* 20 *Jac.* *B. R. Greenway and Tuckfield's Case.* *Errs Case* 42 *Eliz. Co. B.* For this rent is reserved by the donor before, or at least at the time of the entail made; and is as if Tenant in tail grant a rent charge out of the land, and then suffer a Recovery; this doth affirm the rent: or as when the Lord Paramount doth purchase the Tenancy Paravaile, the Mesne shall have the rent. But if after the entail made, the Donor doth grant a rent out of the reversion, and after the Tenant in tail suffer a Recovery; in this case the rent is gone. *Co. 1. in Capels Case.*

If a Lessee for life make a Lease for years rendring rent, and after the Lessee for life surrender his Lease, the rent is gone by *Ch. Justice Bridgman*. But if one make a Lease for years rendring rent, and after grant the rent to *I. S.* and the Tenant attorn, and after the Lessee for years doth surrender; yet the rent doth continue, and it seems he may have an Action of debt for it. So if Lessee for years of land grant a rent charge out of the land, and then surrender his estate; the rent is not gone, *Co. 8. 144. 20 Ed. 4. 13. Plow. 198*. If there be a Lessee for life rendring rent, and the Lessor confirm the land to the Lessee and his heirs without any reservation of rent; in this case the rent is gone. *Bro. Extinguishment 28*.

If two Joyntenants be, and one of them grant a rent out of the land and die; in this case the rent is gone, and the survivor shall hold it discharged. But if the survivor had accepted a release of the right of his companion, contrary. *Co. 6. 16*.

If one have a rent charge issuing out of land to him and his heirs, and he purchase the Fee-simple of all or any

R

part

part of the land out of which the rent doth issue; by this the rent is gone for ever. *Co. 4. 38. D. & St. 35. Dyer 45.* So if the whole land descend to him in Fee-simple, the rent in future is gone. Otherwise it is where the Father doth purchase but part of the land out of which the rent doth issue, and this land doth descend upon the sons; here the rent is not extinct, but apportioned, *Co. 4. 49.* and he hath not so much as an Annuity left for his money. *Co. upon Litt. 148.* As he hath in case where the discharge is by Act of God, or by Act of Law; for there though the rent be gone, yet a writ of Annuity will lie for the rent to charge the person: as if *Tenant per annum* grant a rent charge to one for 21 years, and *Cesty que vie* die, the rent is gone as to the land, but the person chargeable during the Term. So if the land out of which the rent issueth is recovered by one that hath an elder Title. *Co. upon Litt. 148.* But if a man that hath a rent service purchase part of the land out of which it goeth; in this case the rent, if it be severable, shall be apportioned; but if it be an indivisible rent, as a Horse or the like, it is all gone. *Litt.*

Sec. 222. And if the Grantee of a rent charge purchase part of the land, and the Grantor by his Deed reciting this purchase, doth grant that he shall distrain in the residue; by this the rent may be created again. *Co. upon Litt. 148.* And yet if he that hath a rent charge release part of it to the Tenant of the land, and reserve the rest; this is good for the rest. Or he may grant away part of it, and with the attornment of the Tenant this will be good, and the rent shall be divided. *Co. upon Litt. 148.*

If a man make a Lease for life or years, reserving rent, and the Lessee surrender part of the Land to the Lessor; in this case the rent is not gone, but shall be apportioned. So if the Lessor recovereth part of the Land in an Action of Waste, or entreth into part for a forfeiture, the rent shall be divided. So if the Lessor grant part of the reversion to a stranger, the rent shall be apportioned. So if Tenant by Knights service devise by his Will the reversion of two parts of his land; in this case the rent shall be divided. *Co. upon Litt. 148.*

7. Where a demand or request, or a tender of a Rent, is necessary, or not.

To have
an action
or distress
for any
Rent.

AN Action may be brought, or a distress taken, for a rent charge or rent service, without and before any demand made of it. But an Assise cannot be brought for a rent seck and the arrearages thereof, untill the rent be demanded. And if by the Deed or Will, by which the rent is created to be paid upon the Land, it be set down, that the rent charge or rent service before a distresse be taken must be demanded; in this case there need not to be a Demand: but if it be payable at another place out of the Land, *contra. Dyer 348. Co. 7. 28. Kelw. 153. Co. upon Litt. 144. 202. Co. 6. 56. Seldens Case 17 Car. C. B.* If a rent be granted with condition, that if it be arrear, the Grantee shall distrain; in this case the Grantee need not demand it. *Plow. 70.*

To have a
Re-entry,
or *Nomine*
pane.

In most places where a common person would enter into Land upon a condition for not payment of rent, or will have a penalty or *Nomine pane* of a greater summe forfeit for not payment of the

the rent being a lesser sum; there must be a demand duly made of the rent ere he can enter, or have the *Nomine pene*. *Co. upon Litt.* 153. 301. 202. *Co.* 4. 72. And this holdeth true, though it be not expressed in the Deed that it shall be demanded; and albeit no man be upon the land to tender it, and albeit the rent be payable out of the Land and Country. And yet if the agreement be expressed, that if the rent be behind, he that is to have the rent shall enter, or the estate shall cease without demand; here perhaps a demand may not be needfull. *Dyer* 329. 13. 79. 51. *Co.* 6. 56. *Plow.* 172. 70. *Co.* 10. 129. 2 *H.* 7. 14. Yet I have seen the report of a Case thus: If a Lease be made rendring rent, and that if it be behind, the Lessee shall forfeit three shillings four pence in name of penalty, that in this case there needs no demand as in the case of Re-entry. *Trin.* 36 *Eliz. Co. B. Thins Case.*

If I devise Land by Will to *I. S.* on condition he pay 20 *lb.* a year out of it to *K. L.* at two Feasts; in this case there needs no demand. *Dyer* 348. But if one devise a rent by Will to *I. S.* and willeth that if it be not paid, the Executors or

I. S. shall have the land ; in these cases there must be a demand. *Molineaux case Pasc. 5 Jac. B. R.*

If a rent be granted with condition to re-enter, or *Nomine pane* for not payment, he that is to pay the rent must take care to tender it to save the forfeiture. 2 H. 7. 8.

8. *What demand or tender must be made, and how, and what shall be said a good demand or tender of Rent or not.*

IN all cases where a request or demand of Rent is needfull, it must be duly made in all circumstances, or it will not be sufficient to give a man any advantage.

The demand of a rent seck to inable an action must be made thus : After the rent is due and seisin had of it, the party to have it, or some body for him, must be upon the principall place in the land, the last part of the day of payment, or if no tender be made of it on that day, then at any time after the day, and there demand the rent ; and if the Tenant or some other for him be not there ready to pay it, this is a deniall in Law, upon which

which he may have an assise, and therein shall recover the rent and arrearages thereof, and costs and damages. But if there were a tender by the Tenant the last part of the day, and no body to receive it; in this case he hath no remedy for the present, unless he can meet with the Tenant of the Land in some part of the Land: and therefore in this case, the best way is to be on the Land the next day of payment, the last part of the day, and then demand the rent and arrearages thereof; and if no body be there ready to pay it, this is a deniall on which he may have an Assise. *Litt.* 235. *Cr.* 7, 28. *Co. upon Litt.* 153, 154. A demand to enable a distress may be made at any time after the day, and is good enough. *M.* 40, 41 *Eliz.* *Stanleys case, Co. upon Litt.* 144. 153.

The demand of a rent to gain a re-entry into Land, or *Nomine pæne*, must be made thus: First, by and of the right persons. And for this, these things are to be known. For the persons.

1. If a Lease be made for years rendering rent, on condition, that if it be arrear forty days after the day, that the Lessor and his heirs shall re-enter, and

the Lessor demand it, and after die; this is a good demand, and his Heir shall take advantage by it, and may enter. But if the Lessor die after the day, and then the Heir demand it, *contra. D. & St. 35. 13 H. 4. 17.*

2. If two make a Lease rendring rent, on condition, that if it be behind and demanded, they shall re-enter, and one of them die; the Survivour may demand it. Or if the Lease be made to two on such a condition, and one of them dies; the rent may be demanded of the Survivor of them: *Bro. 207. 41 Ed. 3. 16.* and accordingly a tender may be made of rent. And therefore a tender to one Joyntenant or Copartner, or by one Joyntenant, is held to be good. *Bro. Tender 10. 19.*

3. The party that is to demand may do it by his Attorney or Servant, as well as by himself.

For time. Secondly, for time, it must be made the last day given for the payment thereof, and the last part of the day, so long before the Sun set, and it be dark, that the money to be received may be conveniently numbred by day-light; and he must continue his demand till it be night;

night; and the Lessor is not bound to demand at any other time. *Co. upon Litt.* 282. *Noy* 98. *Co.* 4. 72. *Flow.* 72. *Dyer* 329. 130. *Co.* 6. 56. When the Lessee hath two times given him for payment of his rent, as when the Lease is rendering rent at *Michaelmas*, or within ten days after, or in like manner; in this case the demand must be made the last part of *Michaelmas*-day; and the last part of the ten days. For if the Lessee tender it the first day, and the Lessor be not there, and he tender it not the last day, and the Lessor demand it at this day onely; this is not sufficient, for the Lessee hath an election to pay it on which of the days he please. But if the last day be put in the condition onely, provided, that if it be behind ten days after, the Lessor shall re-enter; in this case it need not be demanded at *Michaelmas*, but may be demanded the last part of the ten days onely. *Perk. Sect.* 836. *Bro. Tender* 41. 2 *Henr.* 7. 14. *Co.* 7. 28. 10. 29. *Coke upon Littleton* 2c7. And then and not at any other time the party that is to pay the rent is bound to render it, when he that is to receive it is bound to demand it.

Bro.

Bro. Tender 23. *Co. upon Litt.* 211. But here we must observe that there are four times of payment of rent. First, voluntary, but not satisfactory, and yet good to some purpose: as if Lessee, Donee, &c. pay the rent before the day; this is good to give seisin, to enable him that hath it to bring an Assise. The second time is voluntary, and satisfactory in some cases: as if it be paid the morning of the last day, and the Lessor die before the end of the day; this is good against the Heirs and Executors. The third is the legall and absolute satisfactory time, which is a convenient time before the last instant of the last day, and then it must be tendred. The fourth is satisfactory, but not voluntary, but coercive, and by suit. *Coke* 10. 127.

For place. 3. For place, the demand must be made upon some part of the Land out of which the Rent doth issue, (if no other place be expressed) and upon that part which is most notorious; as at the Porch and fore-Door of the Capitall Messuage, (if any be) and not at the back-Door, or at another House: and if no house be, then at some gate or stile upon some high-way going through

through the Land: or if one place be as notorious as another, then at either of them, or there, and not elsewhere, the rent must be tendred. And if there be two places of payment, as yielding the Rent at such a Stile, or in the Church of *Dale* or *Sale*, or in the House, or the like: there demand must be made at both, for the Lessee may tender at either at his choice; and where he may tender, the other must require it. So if it be paying at or in a place, the demand must be at or in the place. And if by express agreement it be to be paid at a place out of the Land, the demand must be at the most eminent place there where it is to be paid, and then it need not be demanded on the Land. *Compton Littleton* 201. 158. 153. 202. 10. 129. 4. 72. 6. 46. *Dyer* 329. 72. 130. *Noy* 98. And the Lessor is not bound to demand it in any other place, nor is such a demand good. *Bro. Tender* 11. And though the door of the house be open, and the party that is to demand see him that is to pay in the house, he need not go in to demand it, but it is sufficient to do it at the door. *Coke super Litt.* 153. And there and not at any other place the party that is to pay

pay the rent is bound to tender it, where he to whom it is to be paid is to demand it. *Plow.* 172. *Coke upon Littleton* 201. 105. But by agreement of the parties, it may be tendred, and received before the day in any place. *Perk. Sect.* 836, 837, 838. And so perhaps at the day, if the agreement be made of as high a nature as the first agreement was.

For the
manner.

4. For the manner of the demand, he must then and there by himself, or some other for him, make an actual or verbal demand of the rent; and therein it is good to say how much it is, and to set forth his readiness to receive it, after this manner:

Here I demand of I. S. ten pound rent due to me at the Feast of, &c. for a Mesuage, &c. which he holdeth of me by Lease, &c. And there let him remain untill it be so dark, that he cannot see to tell the money. But a demand of more then the rent, is a good demand of the rent. *Dyer* 329. 130. 19. 51. *Plow.* 70. *Noy* 98.

And accordingly, he that maketh tender of rent, must make a reall tender; and it is not sufficient to doe it in shew onely, for he must prove he had and
ten-

tendered so much money as the rent is.

And if it be to be paid on the Land, it seemeth the Lessor must doe the first Act, that is to say, demand it, before the other is bound to pay it; and the other is not bound to tender it, till he demand it. But if it be to be paid at a place out of the Land, then the Lessee is bound to doe the first Act, that is to say, tender it at his perill. But it is good in these cases to doe too much, and to have substantiall witnesses to prove what men doe. Abundant wariness hurts not.

*Abundans
cautela non
nocet.*

And if a demand of rent be not made for time, place and manner, as is afore-said, it is not good. And therefore, if one make a Lease of a House and divers Lands and Woods to another for years, rendring one hundred pound rent at *Michaelmas*, provided, that if the rent be behind ten dayes after *Michaelmas*, the Lessor shall re-enter, [or shall forfeit ten pound in name of penalty;] in this case the Lessor, if he will take advantage of the condition, must come the last part of the last of the ten days, time enough before Sun-set to tell one hundred pound, to

to the House, and there demand the rent, and continue there till Sun-set ready to receive the money. *Bro. Disseisin* 69.

Modus & conventio vincunt legem.

Et, Volens si non fit injuria.

And yet by agreement of the parties, it may be otherwise; for manner and agreement overcome the Law. And he who is willing cannot be wronged. *Coke* 7. 28. 25. 40. *Dyer* 78. 51. *Brooke* 68. And in all these cases, where a tender is requisite, and legally made, it giveth as much advantage to him that doth tender the rent, albeit the party refuse it, as if he did accept it. *Co. upon Litt.* 207. 206. 209.

PRE-

PRECEDENTS
OF
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LONDON,

Printed by G. Sawbridge, T. Roycroft, and
W. Rawlins, Assigns of Richard Atkins and
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THE
COPIES
OF
Court Rolls.

LONDON.

Printed by G. Smith, at the
the Stationers, in Cheap-
side, 1677.

PRECEDENTS
OF
COPIES
OF
COURT-ROLLS.

ff. **C**uria Baronis J. C. Militis Domini *Manerium*
Manerii p̄dicti ibidem tenē die *de H.*

Lune 14. die Septembris, Anno Regni
Domini Caroli Secundi, Dei gratia, An-
glia, Scotia, Francia & Hibernia Regis,
fidei Defensoris, &c. terciodecimo, co-
ram T. P. gen. Seneschallo ibidem.

A. B. esson' de communi esson' p C. L.

E. H. esson' de secta Cur' p G. M. &c.

Abel Byram

Bertrand Capel

Chrisippus Dukeson

Dimmock Ellis

Everardus Finch

Ferrandus Guy

Gabriel Hedder

Heliass Johnson

Jacob Killingworth

Kenelmus Loder

Lancelotus Minors

Milo Nowell

*Homagi-
um.*

Juratores.

S

De'alt'

Defalt' liber' Tenen'.

Juratores p̄dicti sup sacramentum su-
um presentant qđ ^{vj.d. vj.d.}_{A.B.C.D.} &c. sunt liberi
Tenentes hujus Manerii, & debent sectā
Curie, & ad hunc diem fecerunt defalt'.
Ideo quilibet eorum in misericordia ꝑut
patet super eorum capitibus.

*Defalt' Tenen' per Copiam**Rotulorum Cur'.*

Item Juratores p̄dicti super sacramen-
tum suum presentant quod ^{vj.d. vj.d.}_{E.F.G.H.} &c.
sunt Tenentes ꝑ Copiam Rotulorum Cur'
& debent sectam Cur' & ad hunc diem fe-
cerunt defalt'. Ideo quilibet eorum in mi-
sericordia ꝑut patet sup eorum capitibus.

Obitus liberi Tenentis.

Presentat' est etiam ꝑ Homagium pre-
dictum qđ G. E. qui tenuit libere de Do-
mino hujus Manerii unum Coragium &
quatuor acras & tres rodas terre cum ꝑ-
tinentiis in A. infra Manerium p̄dictum
ꝑ fidelitatem, sectam Cur' & reddat pan-
num 4 d. citra ultimam Cur' obiit de tali
statu

statu suo inde seisiť. Et qđ quidem F. E.
est ejus filius & proximus heres, etatis
duodecim annorum. Et ad hanc Cur ven-
nit p̄fat F. E. & solvit Domino pro Rele-
vio 3 d. & fecit fidelitatem, &c.

Alienatio liberi Tenentis.

Item Juratores p̄dicti dicunt super sa-
cramentum suum p̄dictum qđ C. L. qui
renuit libere de Domino hujus Manerii
unum mesuagium, &c. cum pertinentiis
in A. infra Manerium p̄dictum, p̄scriptū
suum indentat geren' dat' primo die Maii,
Anno regni dicti Domini Regis nunc An-
glia, &c. duodecimo, concessit omnia &
singula p̄missa p̄dicta cum pertin' cuidam
H. D. hered' & assign' suis imppetuum,
Habend' & tenend' omnia & singula pre-
missa p̄dicta cum pertinentiis p̄fat
H. D. hered' & assign' suis imperpetuum,
Tenend' de Capitalibus Domino vel Do-
minis feodi illius p̄ Consuetudines, reddit'
& servicia inde prius debiť & de jure
conluet. Que quidem p̄missa p̄dict' H. D.
tenet de Domino hujus Manerii p̄ fide-
litatem, sectam Curie & reddit' per annum
2 s. Et ad hanc Curiam fecit Domino fi-
delitatem, &c.

*Legatio tenementorum liberi
Tenentis.*

Comptum est etiam p Homagium ibidem qd H. D. qui tenuit liberè de Domino hujus Manerii duo mesuagia sive tenementa cum p'inen' in A. intra Manerium p'dictum p fidelitatem, sectam Cur & reddit' p annum 8 d. obiit inde seisit, & p ultimam voluntatem suam in scriptis geren' dat' primo die Februarii, Anno regni dicti Domini Regis nunc terciodecimo, dedit & legavit mesuagia sive tenementa p'dicta cum p'inen' cuidam H. D. filio suo, Habend' & tenend' mesuagia sive tenementa p'dicta cum p'inen' p'fat' H. D. filio hered' & assign' suis in ppetuum. Ideo preceptum est Ballivo distringere p'dict' H. D. ad solvend' Domino Relevium, & etiam distringatur ad faciend' fidelitatem.

Distring'.

Sursumredditio tenementorum Customar' in feodo per manus duorum Customar' tenen' extra Cur'.

Comptum est etiam p Homagium ibidem qd R. B. unus Customar' tenen' hujus Manerii, qui tenuit de Domino hujus Manerii

Manerii per Copiam Rotulorum Cur secundum consuetudinem Manerii predicti unum mesuagium, tres acras terre, duas acras prati, & quatuor acras pasture cum pten' in A. infra Manerium predictum, citra ult' Cur & extra Cur sursum reddidit in manus Domini per manus A. B. & C. D. duorum Customar Tenen' Manerii predicti secundum Consuetudinem Manerii illius tenementa predicta cum pten' Ad opus & usum J. B. hered' & assign' suorum imppetuum, Tenend' de Domino per virgam ad voluntatem Domini secundum Consuetudinem Manerii predicti. Cui quidem J. B. Dominus p Seneschallum suum concessit inde p virgam seisinam, Habend' sibi & hered' suis, ac tenend' de Domino per reddit' per annum quinque solidorum, & alia servicia inde prius debet & de jure consuet'. Et dat Domino de fine pro ingressu suo inde habend' 40 s. fecit fidelitatem, & admissus est inde tenens.

Simile ad terminum vite.

Comptum est etiam p Homagium ibidem qd' W. G. qui tenuit ut supra unam virgat terre cum pten' in A. infra Manerium predictum, citra ult' Cur & extra Cur

sursum reddidit in manus Domini p manus
 .G.H. & S.T. gen' duorum Customar Te-
 nen' Manerii predicti secundum Consue-
 tudinem Manerii illius pdicti virga terre
 cum pertin' Ad opus & usum pd W. G.
 pro termino vite sue naturalis; Et post
 decessum ipsius W. G. tunc ad opus &
 usum L. D. An pro termino vite sue natu-
 ralis; Et post decessum ipsius L. D. tunc
 ad opus & usum rectorum hered' pdicti
 W. G. imppetuum; Tenend' de Domi-
 no per virgam ad voluntatem Domini se-
 cundum Consuetudinem Manerii pdicti.
 Et dictum est per Homagium predictum
 qd' predictus W. G. citra ult' Cur' obiit.
 Et modo ad hanc Cur' venit prefat' L. D.
 & petiit se admitti ad predict' virga terre
 cum pertin'. Cui quidem L. D. Domi-
 minus per Seneschallum suum concessit
 inde per virgam seisinam. Habend' & te-
 nend' eidem L. D. & assign' suis pro ter-
 mino vite sue naturalis, & post decessum
 ipsius L. D. tunc ad opus & usum rector-
 rum hered' prefat' W. G. imperpetuum,
 ac tenend' de Domino per reddit' per an-
 num viginti solid' & alia servicia inde pri-
 us debi' & de jure consue'. Et predictus
 L. D. dat Domino de fine pro ingressu
 suo ad predict' virga terre cum pertinen'
 habend'

habendū sexaginta solidū, & fecit fidelitatem, & admissus est inde tenens.

Aliter pro vita alterius.

Compertum est per homagium ibidem qđ A. L. vidē que tenuit ut supra ad terminum vite sue sex clausa prati & pasture vocat, &c. modo in tenura sive occupatione cuiusdam W. L. jacen' & existen' in E. infra parochiam de A. prox' adjungen' quibusdam pasturis vocat *Pasture-grounds* ibidem cuiusdam C. D. ex occidenrali parte, & quoddam pratum ibidem vocat *Lease-Meadow* ex orientali parte eorundem; & unum clausum pasture vocat *Sleethdole*, continens per estimationem septem acras, (plus vel minus) jacen' & existen' in E. predicti infra predictam parochiam de A. prope adjungen' cuidam Pasture ibidem vocat *Pasture-ground* cuiusdam E. M. ex parte orientali ejusdem; & duas Pasturas (Angl. *Pasture-grounds*) vocat *Kingstones* & *Newelies*, continentes per estimationem octodecim acras, jacen' & existen' in E. predicti prope adjungen' eidem Pasture ibidem cuiusdam W. J. gen' ex parte boreali, & quibusdam terris & pascuis modo in tenura cuiusdam

Marie Hally vidue ex parte australi earundem; citra ult^m Cur & extra Cur sursumreddidit in manus Domini per manus J. F. & G. K. duorum Customar Tenentium Manerii predicti secundum Consuetudinem Manerii illius predicti seperal' clausa prati & pasture cum pertin', ad opus & usum J. L. gener' pro termino vite ipsius A. L. Tenend' de Domino per virgam ad voluntatem Domini secundum Consuetudinem Manerii predicti. Et dictum est per Homagium predictum qd' predicta A. L. citra ult^m Cur obiit. Et modo ad hanc Cur venit prefat' J. L. & petit se admitti ad predicta seperal' clausa prati & pasture cum pertin'. Cui Dominus p Seneschallum suum concessit inde per virgam seisinam, Habend' & tenend' eidem J. L. & assign' suis pro termino vite ipsius A. L. ac tenend' de Domino per reddit' per annum 40 s. & alia servicia inde prius debiit & de jure consueit. Et predictus J. L. dat Domino de fine pro ingressu suo inde habend' centum solid', & fecit fidelitat', & admissus est inde tenens.

Aliter sur settlement in Mariage.

Compertum est per Homagium ibidem
qd'

qd J. B. qui tenuit ut supra unum mesuagium five tenementum vocat *Horners*, quinquaginta acras terre, quadraginta acras prati, triginta & sex acras pasture, & centum & viginti acras marisci cum pertin' in A. infra Manerium predictum, citra ult' Cur & extra. Cur sursum reddidit in manus Domini per manus H. A. & J. V. duorum Customar Tenen' Manerii predicti secundum Consuetudinem Manerii illius predict' mesuagium five tenementum & cetera premissa predicta cum pertin', Ad opus & usum predicti J. B. & hered' & assign' suorum, usque ad solempnizationem cujusdam intensi Maritagii (permissione divina) cito habitur' & solempnizatur' inter quendam C. B. filium & heredem apparentem predicti J. B. ex una parte, & quendam A. D. de A. predict' Spinster ex altera parte; Et ab & immediate post solempnizationem ejusdem Maritagii tunc ad opus & usum predicti J. B. pro & durante termino vite sue naturalis; Et ab & immediate post ejus decessum, tunc ad opus & usum S. uxoris ejus pro & durante termino vite sue naturalis; Et ab & immediate post decessus Anglice *the deceases* ipsorum predictorum J. B. & S. uxoris ejus, & decessum eorū
su-

superviventis, tunc ad opus & usum predicti C. B. pro & durante termino vite sue naturalis; Et ab & immediate post decessus ipsorum predictorum J. B. & S. uxoris ejus & C. B. & decessum eorum superviventis, tunc ad opus & usum predictæ A. uxoris intente predicti C. B. pro & durante termino vite sue naturalis; Et ab & immediate post decessus ipsorum predictorum J. B. & S. uxoris ejus, C. B. & A. uxoris sue intente, & decessum eorum superviventis, tunc ad opus & usum heredum de corpore predicti C. B. super corpus predictæ A. legitime procreat vel fore procreand; Et pro defectu talis Exit, tunc ad opus & usum hered & assign' predicti C. B. impetuum: Tenend de Domino per virgam ad voluntatem Domini secundum Consuetudinem Manerii predicti. Qui quidem J. B. & S. uxor ejus citra ult' Cur obierunt. Et modo ad hanc Cur venit predictus C. B. in propria persona sua, & petit se admitti ad predict' mesuagium sive tenementum & cetera pmissa predicta cum pertin'. Cui Dominus per Seneschallum suum concessit inde per virgam seisinam, Habend & tenend eidem C. B. & assigni suis pro termino vite sue naturalis, Remanere inde prout superius

perius limitatur, Ac tenend de Domino p
reddi per annum 50 s. & alia servicia in-
de prius debiit & de jure consuet. Et dat
Domino de fine pro ingressu suo inde ha-
bend sex libras, fecit fidelitatem, & admis-
sus est inde tenens.

*Aliter super Conditionem non
performat.*

Compertum est etiam per Homagium
ibidem qd H. R. qui tenuit ut supra unum
mesuagium five tenementum, decem &
octo acras terre jacen' in communibus
Campis de A. infra Manerium predictu,
& viginti acras prati jacen' in quodam
Prato in A. predict vocat *Hughes Mead*,
Alias, scilicet, primo die Maii, Anno Do-
mini 1659. extra Cur sursum reddidit in
manus Domini per manus H. J. & N. B.
duorum Customar Tenen' Manerii predi-
cti secundum Consuetud' Manerii illius
predict mesuagium five tenementum &
cetera premissa predicta cum pertinen'
Ad opus & usum C. D. hered' & assign'
suorum imperpetuum, Sub hac tamen Con-
ditione, quod si predictus H. R. hered'
vel assign' sui solverent vel solvi causarent
prefat C. D. Executoribus, Administrato-
ribus

ribus vel assign' suis, cent' libr' legalis mō-
 nete Angl' ad vel sup' secundū diem Maii
 qui foret in añ Dōm Millefimo sexcente-
 fimo sexagesimo, tunc sursum reddit' pred'
 foret vacua & nullius effectus, aliter flaret
 in plena potestate & virtute. Et modo ad
 hanc Cur' venit predictus C. D. in pro-
 pria persona sua, & petit se admitti ad p̄-
 dict' mesuagium & cetera p̄missa predi-
 cta cum pertin'. Cui Dominus per Se-
 neschallum suum concessit inde p' virgam
 seisinam, Habend' & tenend' eidem C. D.
 heredibus & assign' suis imperpetuum,
 Tenend' de Domino per virgam ad vo-
 luntatem Domini secundum Consuetudi-
 nem Manerii predicti, ac per reddit' per
 annum decem solid' & alia servicia inde
 prius debi' & de jure consue't. Et dat
 Domino de fine pro ingressu suo inde ha-
 bend' centum solidos, fecit fidelitatem, &
 admissus est inde Tenens.

*Concessio tenementorum Customar'
 per Dominum Manerii ad termi-
 num vite, Remanere in Tallio, Re-
 manere in feodo post Abatamen-
 tum.*

Compertum est etiam per Homagium
 ibidem

ibidem quod quidam O. B. Miles defunctus tenuit de Domino hujus Manerii die quo obiit sibi & heredibus suis ad voluntatem Domini secundum Consuetudinē Manerii predicti unum mesuagium sive tenementum, viginti acras terrarū, viginti acras prati, quadraginta acras pasture, triginta acras bosci, quadraginta acras jampnorū & bruerē, quinquaginta acras more, & centum acras marisci cum pertin' in A. predicta infra Manerium predictum. Et quod predictus O. obiit de tali statu suo inde seisis per sex annos jam ultim' elapsos & amplius. Et quod quidam H. R. in jure A. uxoris sue, quondam uxoris L. B. Armigeri filii predicti O. B. immediate post decessum predicti O. B. in predict' mesuagium sive tenementum & cetera premissa predicta cum pertin' abatauit, intravit, & intrusit super possessionem Domini Manerii predicti, in exhereditationem dicti Domini Manerii predicti & successorum suorum, & contra consuetudinē Manerii sui predicti à tempore cujus contrarii memoria hominum non existit in eodem Manerio usitat' & approbat' ; & exitus & proficua inde à tempore mortis predicti O. B. ad suum proprium usum hucusque habuit & percepit, non capiend' predicta

dict' mesuagium sive tenementum & cetera premissa predicta cum pertin' extra manus Domini Manerii predicti, nec fecit inde Domino finem pro eisdem secundum Consuetudinem Manerii sui predicti. Et sic predictus H. R. tenuit & occupavit predict' mesuagium sive tenementum & cetera premissa predicta cum pertin' p predictos sex annos ult' elapsos & amplius, contra Consuetudinem Manerii predicti. Ideo preceptum est Ballivo Manerii predicti seiscire in manus Domini predict' mesuagium sive tenementum & cetera premissa predicta cum pertin' quousque, &c. Et Dominus modo habens inde seisinam ad humilem petitionem predicti H. R. ex gratia sua speciali ad hanc Curiam concessit extra manus suas predict' mesuagium sive tenementum & cetera premissa predicta cum pertin' prefat' H. R. & A. uxori ejus ad terminum vite ipsius A. Et liberata est eis seiscina per virgam, Habend' & tenend' predict' mesuagium sive tenementum & cetera premissa predicta cum pertin' prefat' H. R. & A. ad terminum vite ipsius A. ad voluntatem Domini secundum Consuetudinem Manerii predicti. Et post decessum ipsius A. remanere inde quibuscumque D. T.

& K. uxori ejus, Consanguinee & p̄xime
hered̄ predicti O. B. videlicet filie predi-
cti L. B. filii predicti O. B. & hered̄ de
corpore predicti D. T. legitime procreat̄;
Et pro defectu talis Exitus remanere inde
prefat̄ K. uxori predicti D. T. & hered̄
de corpore predicti K. legitime procre-
at̄; Et pro defectu talis Exitus remanere
inde prefat̄ H. R. & hered̄ de corpore
predicti H. R. legitime procreat̄; Et pro
defectu talis Exitus remanere inde prefat̄
A. uxori predicti H. R. & hered̄ de cor-
pore ejusdem A. legitime procreat̄; Et
pro defectu talis Exitus remanere inde
cuidam V. S. & hered̄ suis imperpetuum,
Tenend̄ de Domino per virgam ad volun-
tatem Domini secundum Consuetudinem
Manerii p̄dicti per reddit̄ & servicia inde
prius debīt & de jure consuet. Et tam
predicti H. R. & A. uxor ejus quā pre-
dicti D. T. & K. uxor ejus dant Domino
de fine pro tali ingressu suo inde habend̄
de & in premissis octoginta solidos, fece-
runt Domino fidelitatem, & admissi sunt
inde Tenentes modo & forma p̄dictis, &c.

Et si n̄ videret̄ H. R. & A. uxor ejus quā
predicti D. T. & K. uxor ejus dant Domino
de fine pro tali ingressu suo inde habend̄
de & in premissis octoginta solidos, fece-
runt Domino fidelitatem, & admissi sunt
inde Tenentes modo & forma p̄dictis, &c.

*Sursumredditio tenementorum Cu-
stomar' pro vltia, Remanere in fe-
odo, capt' per Seneschallum extra
Cur'.*

Ad hanc Curiam testatum est per T. P. Seneschallum, quod primo die Januarii, Anno regni dicti Domini Regis nunc duodecimo, A. L. gener' jacens in extremis sursumreddidit in manus Domini per manus dicti Seneschalli extra Cur' in p'ntia S. D. S. R. & D. J. secundum Consuetudinem Manerii predicti unum antiquum Cotagium sive tenementum in quo J. C. modo inhabitat, triginta acras terre, viginti & sex acras prati, & quadraginta acras pasturæ cum pertin' in A. infra Manerium p'dictū vocat' *Alexanders Farme*, Ad opus & usum J. uxoris ejusdem A. L. pro termino vite sue; Et post decessum ejusdem J. Remanere inde C. L. & H. L. filiis nata minoribus predicti A. L. & heredibus suis. Proviso tamen semper & sub hac Conditione, quod si contingat aliquem p'dictorum C. & H. obire sine heredē de corpore suo exeun', quod tunc ipse qui supervixerit habebit & gaudebit p'dictū Cotagium sive tenementum & cetera premissa

premissa predicta cum pertinet sibi & heredibus suis imperpetuum. Et super hoc venit hic in Cur' predict' J. in propria persona sua, & petit se admitti ad Cottagium five tenementum & cetera premissa predicta cum pertinet. Cui Dominus per Seneschallum suum concessit inde per virgam seisinam, Habend' sibi in forma predicta ad voluntatem Dñi secundum Consuetudinem Manerii predicti. Et dat Domino de fine pro ingressu suo inde habend' quadraginta solidā, fecit fidelitatem, & admissus est inde tenens.

Simile capit' per Seneschallum extra Cur' ad usum viri & uxoris & hered' de corpore viri, remanere hered' uxoris in tallio, remanere viro presentis tenentis pro vita in tallio, remanere presen' tenen' pro vita in tallio, remanere in feodo.

Ad hanc Curiam testatum est etiam p predictum T. P. Seneschallum ibidem, qd decimo die Februarii, Anno Regni dicti Domini Regis nunc terciodecimo, T. J. venit coram pefat' Seneschallo in propria persona sua, & sursum reddidit in manus

T

Domini

Domini per manus dicti Seneschalli extra Cur in presentia L. D. C. K. & J. T. secundum Consuetudinem Manerii predicti Reversionem unius mesuagii sive tenementi, sexdecim acrarum terre, duodecim acrarum prati, & tredecim acrarum pasture cum pertin' vocat *Dillinghams Farms*, ac Reversionem duorum Cottagiorum, octodecim acrarum prati, & quatuordecim acrarum pasture cum pertin' in H. infra parochiam de A. Ad opus & usum D. T. & K. uxoris ejus & heredum de corpore predicti T. legitime procreat' cum post mortem cujusdam A. modo uxoris H. J. acciderint: Et pro defectu talis Exitus de corpore predicti D. T. legitime procreat' remanere inde pifat' K. uxori pifat' D. & hered' de corpore ejusdem A. legitime procreat'; Et pro defectu talis Exitus remanere inde pifat' H. J. & hered' de corpore suo legitime procreat'; Et pro defectu talis Exitus remanere inde pifat' A. uxori predicti H. J. & hered' de corpore ejusdem A. legitime procreat'; Et pro defectu talis Exitus remanere inde V. S. & hered' suis imppetnum. Quibus quidem D. T. & K. uxori ejus Dominus per Seneschallum suum predictum ad hanc Cur concessit inde per virgam seisinam,

nam, Habendū & tenendū predictū mesuagi-
um, Cottagia & cetera premissa predicta
cum pertinen' in Reversione secundū Con-
suetudinem Manerii predicti, cum post
mortem predictę A. uxoris predicti H. J.
acciderint, prefat' D. & K. uxori ejus &
hered' de corpore predicti D. legitime pro-
creat'; Et pro defectu talis Exitus reman-
nere inde prefat' K. uxori prefat' D. &
hered' de corpore ejusdem K. legitime pro-
creat'; Et pro defectu talis Exitus reman-
nere inde prefat' H. J. & hered' de corpo-
re suo legitime procreat'; Et pro defe-
ctu talis Exitus remanere inde prefat' A.
uxori predicti H. J. & hered' de corpore
ejusdem A. legitime procreat'; Et pro
defectu talis Exitus remanere inde V. S.
& hered' suis imperpetuum ad voluntatem
Domini secundum consuetudinem Mane-
rii predicti per reddit' & servicia inde
prius debit' & de jure consuet'. Et predi-
cti D. & K. uxor ejus dant Domino de fi-
ne pro tali statu suo inde habendū centum
solidos, & admissi sunt inde tenentes mo-
do & forma predictis. Et predictus Do-
minus cognoscit se satisfact' de predicto
fine inde habendū pro mesuagio, cottagiis
& ceteris premissis predictis cum perti-
nenciis de predictis D. & K. uxore ejus,

cum predict' mesuagium, cottagia & cetera premissa predicta cum pertinenciis post mortem predictæ A. uxoris predicti H. J. ad manus suas devenerint. Et postea ad hanc Curiam venit predictus T. J. in propria persona sua, & hic in plena Curia sursumreddidit in manus Domini tota jus, titulum, clameum & interesse sua in omnibus predictis mesuagio, cottagiis & ceteris premissis cum pertinenciis ad usus predictos. Et ulterius remisit, relaxavit, & omnino pro se & heredibus suis quietum clamavit prefatis H. J. & A. uxori ejus tota jus, titulum, clameum, interesse & demand sua que ipse predictus T. J. unquam habuit in predictis mesuagio, cottagiis & ceteris premissis predictis cum pertinenciis, Habend' & tenend' omnia & singula predict' mesuagium, cottagia & cetera premissa predicta cum pertinenciis prefat' H. J. & A. uxori ejus pro termino vite predictæ A. & post decessum ejusdem A. remanere omnium predictorum terrarum & tenementorum cum pertinenciis prefat' D. T. & K. uxori ejus & hered' de corpore predicti D. legitime procreat'; & pro defectu talis Exitus remanere inde prefate K. uxori predicti D. & hered' de corpore ejusdem K. legitime procreat';

creat' ; Et pro defectu talis Exitus remanere inde prefat' H. J. & hered' de corpore predicti H. J. legitime procreat' ; Et pro defectu talis Exitus remanere inde prefat' A. uxori predicti H. J. & hered' de corpore ejusdem A. legitime procreat' ; Et pro defectu talis Exitus remanere inde prefat' V.S. & heredibus suis imperpetuum ad voluntatem Domini secundum Consuetudinem Manerii predicti, &c.

*Presentamentum de morte Coheredis
ubi tenementa customar' discend'
unico fratri & heredi.*

Compertum est etiam per Homagium ibidem, quod T. S. qui tenuit sibi & hered' suis de Domino hujus Manerii secundum Consuetudinem Manerii predicti unum messagium sive tenementum, duo cottagia, tria Tosta, unum Columbare, unum Gardinum, duo Pomaria, quinquaginta acras terre, viginti acras prati, octoginta & septem acras pasture, centum acras bosci, ducentas acras Jampnorum & bruere, & sexaginta acras Marisci cum pertinenciis in A. ante hanc Curiam obiit inde seiscitus. Et quod H. S. est unus frater & heres proximus predicti T. S. & plene etatis,

qui presens hic in Curia petit se admitti
 tenentem ad omnia terras & tenementa
 Customaria de quibus ipse predictus T. S.
 obiit inde seifitus, videlicet ad predicta
 mesuagium, cottagia, terras, tenementa,
 & cetera premissa predicta cum pertinen'
 in A. predict' infra Manerium predictum.
 Cui quidem H. S. Dominus per Sene-
 schallum suum predictum concessit inde
 per virgam seifinam, Habend' & tenend'
 sibi & heredibus suis, Tenend' de Domino
 per virgam ad voluntatem Domini secun-
 dum Consuetudinem Manerii predicti p
 reddit' & servicia inde prius debit' & de
 jure consuet'. Et dat Domino de fine p
 Ingressu suo inde habend' decem libras, &
 fecit Domino fidelitatem, & admissus est
 inde tenens.

*Similis discensus filio & heredi de
 terris customar' ten' in Coparce-
 neria.*

Compertum est etiam per homagium
 ibidem, quod quidam H. B. qui tenuit de
 Domino hujus Manerii ut Parcenarius se-
 cundum Consuetudinem Manerii predicti
 tria mesuagia, tria Cottagia, sexaginta a-
 gras terre, septuaginta prati, & centum
 &

& quinquaginta acras pasture cum pertin' in A. infra Manerium p'dictum simul cum J. B. fratre suo, sibi & heredibus suis, obiit citra ultimam Curiam inde seisit'. Et qd quidam L. B. est ejus filius & proximus heres quoad medietatem p'dictorum mesuagiorum, Cottagiorum, terrarum & tenementorum p'dict' cum pertin', & plene etatis; qui presens hic in Curia petit se admitti tenentem ad p'dictam medietatem p'dictorum terrarum & tenementorum cum pertinenciis. Cui quidem L. B. Dominus per Seneschallum suum p'dictum concessit inde per virgam seisinam, Habend' & tenend' sibi & heredibus suis in Coparcenerio cum p'fat' J. B. Tenend' de Domino per virgam ad voluntatem Domini secundum consuetudinem Manerii p'dicti per reddit' & servicia inde prius debet' & de jure consuet'. Et dat Domino de fine pro ingressu suo inde habend' quadraginta solidos, & fecit Domino fidelitatem, & admissus est inde tenens.

Sursumredditio in Curia per Seneschallum.

Ad hanc Curiam venit A. B. unus Customar

flomaf tenent' hujus Manerii in propria
 persona sua, & fursum reddidit in manus
 Domini per manus Seneschalli sui predicti
 unum Cottagium cum pertinenciis vocat
Sladens, ac duodecim acras terre jacen'
 in communi Campo de A. predict' vocat
le Marsh field, videlicet unam acram inde
 super stadio ibidem vocat *Carters Fur-*
long, inter terras Georgii Cambridge ex
 orientali parte, & terras Willielmi John-
 son ex occidentali parte ibidem, & abut-
 tan' super terram Capitalem vocat *A*
Headland cujusdam Johannis Ingersole i-
 bidem ex parte australi; quatuor seliones
 inde (per estimationem unam acram) ja-
 cen' super stadio ibidem vocat *Websters*
Furlong, inter terras Willielmi Wilson
 generosi ex parte australi, & terras Jose-
 phi Tiler ex parte boreali ibidem, & a-
 buttan' super communem viam ibidem ex
 parte orientali inde; duas acras inde jacen'
 super eodem stadio vocat *Websters Fur-*
long, juxta terras pertinen' Collegio vocat
Cains College in Cantebrigia ex parte bo-
 reali, & abuttan' super dictam commu-
 nem viam ibidem ex parte orientali inde;
 duas rodas inde jacen' super stadio ibidem
 vocat *Long Furlong*, inter terras Manilii
 Willoughby generosi ex parte orientali, &
 terras

terras prebonorabilis Edwardi Comit
 Clarendon ex parte occidentali, & abut-
 tan' super Rivolum ibidem vocat' *Stare-*
den Brook ex parte boreali inde; tres ro-
 das inde jacen' super dicto stadio vocat'
Long Furlong, inter terras Johannis Jor-
 dan Armigeri ex parte orientali, & terras
 Henrici Godfrey Militis ex parte occiden-
 tali, & abuttan' super dictum Rivolum i-
 bidem vocat' *Stareden Brook* ex parte bore-
 ali inde; tres alias rodas inde jacen' super
 dicto stadio vocat' *Long Furlong*, inter
 terras Roberti Baker generosi ex parte oc-
 cidentali, & terras Willielmi Arter ex
 parte orientali inde, & abuttan' super di-
 ctum Rivolum ibidem vocat' *Stareden*
Brook ex parte boreali inde; sex seliones
 inde (per estimationem unam acram &
 dimidium unius acre) jacen' super stadio
 ibidem vocat' *Church Furlong*, inter terras
 Roberti Jason Baronetti ex parte australi,
 & terras modo Domini hujus
 Manerii ex parte boreali, & abuttan' super
 Coemeterium Ecclesie parochialis de A.
 ex parte orientali inde; sex alias seliones
 inde (continen' per estimationem unam
 acram & dimidium unius acre) jacentes
 super eodem stadio vocat' *Church Fur-*
long, inter terras Susanne Carter vidue
 ex

ex parte boreali, & terras Hugonis Claver generosi ex parte australi, & abuttan' super predictum Cœmeterium Ecclesiæ parochialis de A. predict' ex parte orientali inde; dimidium unius acre inde existens Caput, vocat' *the Headland*, ejusdem stadii vocat' *Church Furlong*; unum aliud dimidium unius acre inde jacen' super stadio vocat' *the Hill Furlong*, inter terras prenobilis Georgii Ducis Buckinghamie ex parte orientali, & terras pertin' Magistro, Sociis & Scholaribus Collegii Sancti Johannis in Canteburgia ex parte orientali, & abuttan' super quasdam terras ibidem vocat' *Stirchleys Heydons* ex parte australi inde; unum aliud dimidium unius acre inde jacens super eodem stadio vocat' *the Hill Furlong*, inter terras Georgii Mountague generosi ex parte orientali inde, & terras dicti modo Domini ejusdem Manerii ex parte occidentali, & abuttan' super dictas terras ibidem vocat' *Stirchleys Heydons* ex parte australi inde; duas rodas inde jacen' super stadio ibidem vocat' *Dirty Furlong*, inter terras Johannis Whitby Armigeri ex parte meridionali, & terras Ambrosii Gregory generosi ex parte septentrionali, & abuttan' super magnum Boscum vocat' *Gayers Wood* ex parte

parte occidentali inde; duas alias rodas inde jacen' super dicto stadio vocat' *Dirty Furlong*, inter terras Jacobi Scott ex parte septentrionali, & terras Dionisii Antrobus generosi ex parte meridionali, & abuttan' super dictum Boscum vocat' *Gayers Wood* ex parte occidentali inde; Ad opus & usum Johannis Rider, hered' & assign' suorum imperpetuum. Cui quidem Johanni Rider Dominus per Seneschallum suum concessit inde seisinam per virgam, Habend' sibi & hered' suis, Tenend' de Domino per virgam ad voluntat' Domini secundum consuet' Manerii p'd' p' reddit' & servicia inde prius debit' & de jure consuet'. Et dat Domino de fine pro ingressu suo inde habend' viginti sex solid' & octo denar', fecit fidelitatem, & admissus est inde tenens.

Copia Rotuli Curie, sive extracti sursum redditionis e rotulis Cur'.

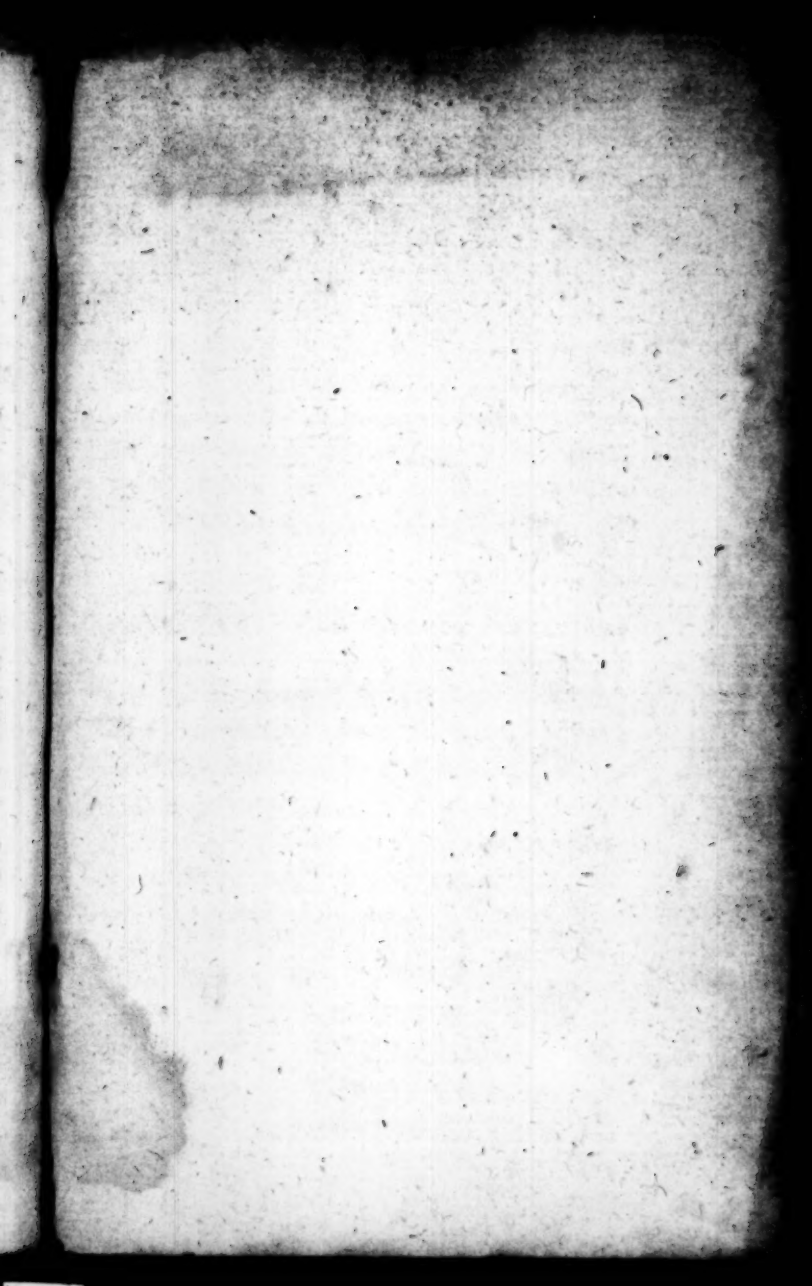
ff **A**D Curiam Baronis J. P. Militis, Domini Manerii predicti, ibidem tent' die Lune primo die Septembris, Anno Domini millesimo sexcentesimo sexagesimo tercio, annoque Regni Domini nostri Caroli Secundi, Dei gratia,
An-

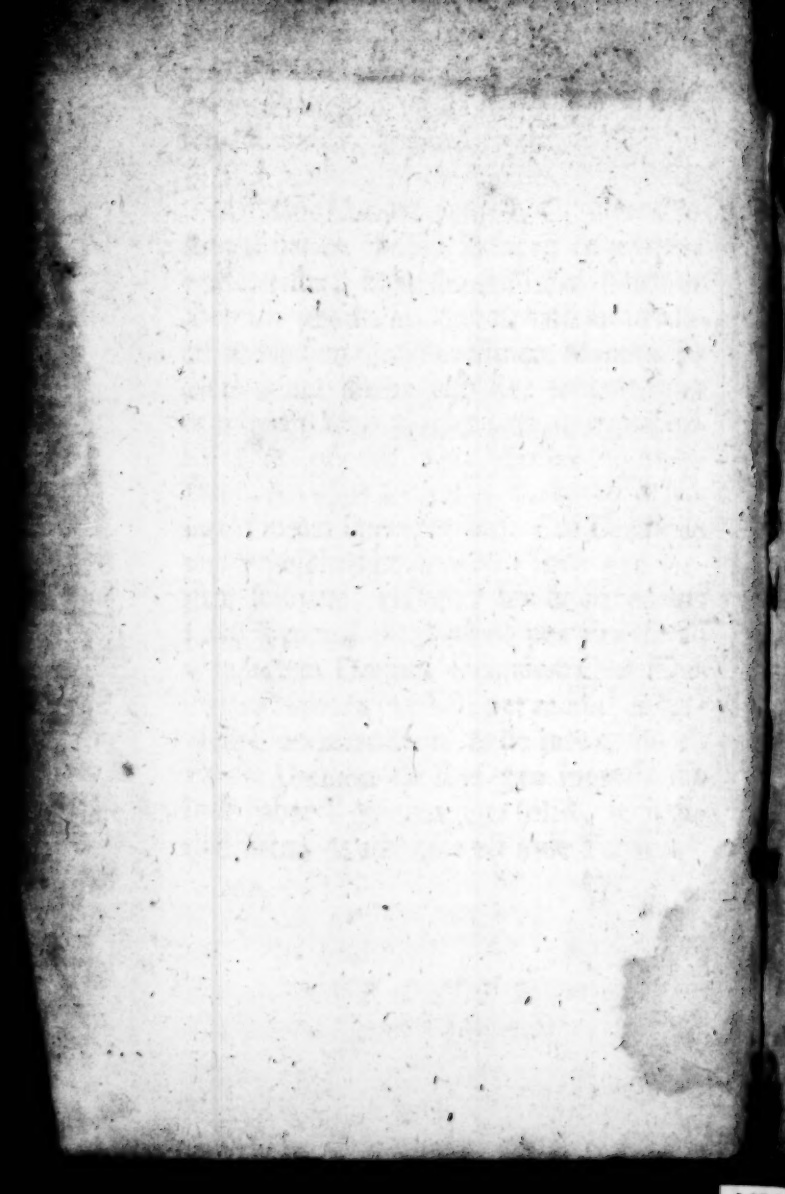
Manerium de A. C. cum Membris.

Anglie, Scocie, Francie & Hibernie Regis, fidei Defensoris, &c. terciodecimo, coram Francisco Wyat Armigero, Seneschallo ibidem, Irroratur sic.

Ad hanc Curiam venit L. C. unus Customar tenen' hujus Manerii in propria persona sua, & sursum reddidit in manus Domini per manus Seneschalli sui predicti secundum Consuetudinem Manerii predicti unum mesuagium sive tenementum & triginta acras prati & pasture cum pertin' in A. predict' infra Manerium predictum, Ad opus & usum J. C. hered' & assign' suorum imperpetuum. Cui Dominus per Seneschallum concessit inde per virgam seisinam, Habend' sibi & heredibus suis, Tenend' de Domino per virgam ad voluntatem Domini secundum Consuetudinem Manerii predicti per reddit' & servicia inde prius debita & de jure consuet'. Et dat Domino de fine pro ingressu suo inde habend' quinquaginta solidi, fecit fidelitatem, & admissus est inde Tenens.

P I N I S.





Handwritten text, possibly a signature or name, in cursive script.